



The Family Rights Coalition of Michigan

P.O. Box 366, Troy, MI 48099

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www.frcmi.org

Michael T. Ross, MD, *President*

Jay A. Fedewa, PE, *Executive Director*

HB 5267 (Mortimer) Shared Parenting Bill

Letters of Testimony & Background Information

House Family and Children Services Committee

Legislative Hearing

December 6, 2007

**Room 519
Anderson House of Representatives Building
Lansing, Michigan**



"If there is a divorce in the family, I urge a presumption of joint custody of the children.

Shared parenting is not only fair to men and children, it is the best option for women. After observing women's rights and responsibilities for more than a quarter of a century of feminist activism, I conclude that shared parenting is great for women, giving time and opportunity for female parents to pursue education, training, jobs, careers, profession and leisure. There is nothing scientific, logical or rational in excluding men or forever holding women and children as if in swaddling clothes in an eternally loving bondage. Most of us have acknowledged that women can do everything that men can do. It is time now for us to acknowledge that men can do everything women can do."

Karen DeCrow
Former President
National Organization for Women
1974-1977



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December 6, 2007

Dear Chairman Stahl & Fellow Committee Members,

It has taken two long and arduous years to bring **HB 5267** and the concept of two parents having a presumption of equal stature and responsibility in the lives of their children to your committee for consideration. As one of Michigan's leaders in this process, I regret that a sudden medical problem does not allow me to attend this hearing nor submit more substantive testimony.

Here in the balance are the most fundamental American values, enshrined in Thomas Jefferson's articulation of natural law, that we are endowed with "certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Certainly, the love and relationships between a child, mother and father should deserve the highest standard of protection offered by natural and constitutional law.

This love is the foundation upon which a successful society is built. It is the glue which joins members of a family to each other. Family provides the cell structure for neighborhoods, communities and nations. Pope John Paul II has said, "As the family goes, so goes the nation and so goes the whole world in which we live."

We live in a time of great cultural upheaval, a time when all relationships are under siege including those that govern every human interaction in our society from family and community to business and government. The more our social structures disrespect the fundamental relationships of life and family, the weaker are the bonds that hold us together as individual communities and as a state and as a nation.

It is tragic enough that two parents who have joined to conceive a child find that they are unable to maintain a loving and working relationship. Natural law would argue here that the best interest of a child is served when his/her relationship to each of his/her fit parents is protected even though Mom and Dad opt to parent apart. It is oxymoronic to argue that an impersonal, overburdened court system can decide the best interest of a child when that child has two fit parents who love him as no court ever could.

The State creates a far greater tragedy for children, parents and for all of society when it compounds the endemic, conflicts of men and women in families with laws and policies that disenfranchise parents and children merely to assert and insert the authority of the state. The state does not have the resources to evaluate the vast complexities and details of the lives of its 2.5 million children to make decisions about their best interests that are obviously best made by their parents.

HB 5267 would place decision making about the best interests of a child back where it belongs, with their mothers and fathers. It would reserve a role for courts to intervene in only those exceptional circumstances where parents are not able to serve as parents. This proper shift of authority and resources back to the family from the state will restore the vital human capital Michigan needs to revitalize our institutions and our economy.

Central control of family life through the court system is destroying millions of adults and children in our state. **HB 5267** will begin the process of reversing this madness.

Respectfully,

Michael T. Ross, MD
Father of Three Children
Emergency Physician
President, Family Rights Coalition of Michigan



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December 6, 2007

To Members of the House Family and Children Services Committee:

The plight of families in the State of Michigan has reached disastrous proportions. This epidemic of children being denied access to both parents has to stop. The court system will tell you that 95% of family law cases are successfully resolved without going to court. What they don't tell you is that most of these supposedly resolved cases were resolved under duress. Mediators tell divorcing couples that you will spend thousands of dollars and still not have equal custody so the non-custodial parent gives in to the low standard the family courts have set. This is a cookie cutter approach where 80% of all cases are awarded the same "sole custody" cookie. In this arrangement, one parent is burdened with the day-to-day responsibility while the other has to deal with the financial responsibility without seeing much of the kids.

Almost all research shows that the current system is not in the best interest of children. Hundreds of thousands of kids in this state are being left behind. Scientifically and anecdotally, the evidence abounds. A child who grows up without both parents in their lives is more prone to involvement in gang violence, substance abuse, promiscuous sex, and many other social ills. They also have difficulty in school, and in forming healthy relationships with the opposite sex. This all comes with huge negative consequences for society and a huge price tag as our government tries to deal with the many social problems.

The current lose-lose system is designed to create conflict between mother and father, and drain their resources. It places all the power in the hands of one parent while depriving the other, and sets up a situation where on-going animosity is the norm. No one wins under this system, not the Father, not the mother, and certainly not the children.

The Family Rights Coalition of Michigan says it's time to set a higher standard of cooperation and whole-heartedly supports **House Bill 5267**. With **HB 5267**, the playing field will be leveled and the incentives to destroy the other party will be gone, since it takes a higher legal standard, clear and convincing evidence, to deny the right of a child to be with both parents.

Intact families share their children. Why can't less than perfect families also share? The best way to test if the involvement of both parents benefits children is to look at the percentage of intact families by ethnic group. It is no coincidence that the group with the highest percentage of intact families is the most successful academically (Asians at 75% intact) while the group with the lowest percentage of intact families has the most academic and social challenges (African Americans at 27% intact). The gold standard for parent involvement is the intact family. It just makes sense that we set a standard where both parents are involved in their kid's lives to the greatest extent possible. And that standard is embodied in **HB 5267**, a standard of equal parental responsibility. We urge the committee to pass this important bill today.



NAEYAERT

ADVOCACY GROUP

CHILDREN'S RIGHTS

HB 5267 (Mortimer) – Shared Parenting Bill House Family & Children's Services Committee Testimony for December 6, 2006

- Mr. Chairman and distinguished committee members, my name is Gary Naeyaert and I've spent most of the past year representing the Dads of Michigan PAC and the Family Rights Coalition of Michigan, both of whom support **HB 5267**, the "shared parenting" bill introduced by Rep. Mortimer.
- You hear from multi-client lobbyists every day because we're paid to present a position, and our private feelings usually remain private. Well, today I'd like to speak to you in my position as a father, which is more rewarding and more important than anything I've done as a lobbyist.
- It is unfortunate, but like the majority marriages in our state, my first marriage ended in divorce nearly a decade ago, when my two sons were 8 and 6 years old. Naive and unaware, my attorney made it very clear that seeking joint custody would be a long, painful, combative and extremely expensive process, and the likely result would have me on the losing end.
- In order to reduce the additional conflict, I reluctantly accepted the standard custody agreement of 4 overnights per month and a few hours one evening per week with my boys. As a result, I went from being a fairly engaged father to merely a "visitor" in the lives of my sons.
- Let me be clear on this point. I chose to end my relationship as a husband, but I never chose to give up my role as "father." Michigan's child custody system took this role from me, and my life, and the lives of my children, were changed forever.
- Some critics of this bill have a vested interest in maintaining a status quo which lines their pockets and demonizes non-custodial parents. This bill replaces the existing cookie-cutter 85:15 custody arrangement with a "one size fits most" solution that puts custodial and non-custodial parents on a level playing field upon which true negotiation and compromise can be accomplished. Shared Parenting allows mothers and fathers to explore the myriad of options between the 85:15 scenario and true shared parenting.
- Reams of social research support what common sense and your own practical experience tells you – that children fare much better, and their true "best interests" are served, when both parents remain actively involved in their lives. Our state's public policy goal should be to promote continued parental access and responsibility – not to exacerbate the tragedy of divorce by creating second-class citizens labeled as non-custodial parents.
- From a practical standpoint, we're under no delusions this bill will make it to the Governor's desk this year, and we understand the mighty special interests who oppose equal rights for all parents don't want you to vote "YES" and they certainly won't allow her to sign it. In the end, what we're asking today is largely symbolic – yet it remains important.
- A "YES" vote on this bill is a statement that non-custodial parents are still parents, and that we should be working to provide Michigan's children with meaningful access to both parents. A "NO" vote, on the other hand, is another victory for the status quo, providing support for an institutionalized child custody system that serves few well and is ripe for reform. We urge you to vote "YES" on **HB 5267** today.

Children Need Both Parents, Inc.

THE ORGANIZATION PROMOTING TWO PARENT INVOLVEMENT

629 Diamond Ave NE
Grand Rapids, MI 49503
Phone 616-301-1515
Fax 616-301-1616

December 5, 2006

The Honorable John Stahl
Children and Family Services Committee
Michigan House of Representatives
P.O. Box 30014
Lansing, MI 48909

Dear Chairman Stahl & Committee Members:

I am writing on behalf of **HB 5267** which is a Shared Parent initiative. I am requesting the support of you and the other members of this committee basically because this is the right thing to do.

My children are now grown and I have absolutely nothing to gain however what I have lost is the formative years of my two sons who are now 19 and 20 years old. I have never missed a child support payment but what I did miss was my children's childhood which I can never get back. I don't have any of my children's school pictures, I don't have the memories of school plays or games or any of the things that a parent should have with their children. I am a fit person and have always been there for my boys however, the state reduced me to a visitor in their lives. To the extent that my invitation for my oldest child's graduation was given to me by phone from their mother thirty minutes before the graduation began needless to say that I missed this milestone in my son's life.

My oldest son has been diagnosed with liver cancer and is now fighting for his life. During this grim time, we are spending the time now talking about the things that we have missed and hoping that his life is extended so that we can get to know each other both personally and spiritually. If our lives had not been taken from one another, we could have done this during his childhood as it should have been.

I am humbly submitting to this committee to make a marked change to stop destroying the lives of children who love both of their parents and support the acknowledgement of both parents as appropriate in the best interest of the children.

Sincerely,

Minister Ronald E. Smith, CEO
Children Need Both Parents, Inc.

HB 5267 will not eliminate these abuses and it will not repair the past relationships which have been destroyed by the current system – but it is certainly a step in the right direction. I love my father with everything that I have and I am eternally grateful that he didn't just walk away but continued to pursue my brother and I as important parts of our lives. IF THIS COMMITTEE TRULY WANTS TO DO WHAT IS IN THE BEST INTEREST OF THE CHILD, PLEASE STOP PERPETUATING THE DISTRUCTION OF FAMILY RELATIONSHIPS AND SUPPORT HB 5267.

Sincerely,

Ariel D. Smith

Nancy Miller
8880 Smith Road
Tecumseh, Michigan 49286
517-424-7018

I urge the passage of House Bill 5267 because children and parents both need each others' love and presence in their lives. Current Michigan divorce law makes it all too easy for a child to essentially become an orphan from one parent. HB 5267 would require that fit, able and willing parents who are involved in a custody dispute develop and implement a mutually agreed upon joint custody arrangement following the breakup of their family unit. Under the present system, it is not uncommon for children to be drawn into their divorcing parents' arguments. The unwitting or overtly negative words and actions of one parent can lead to the polarization of the children and their possible estrangement or alienation from the other parent. Involving both parents in executing a joint physical custody arrangement that involves residential stability, shared decision making and continued school routines would greatly benefit the child and substantially reduces the possibility of estrangement or alienation of that child from one of the parents.

Experiences gleaned since the 1998 breakup of my own family have convinced me that it is imperative for both parents to have the benefit of ongoing contact with their children upon their marital separation. A legal technique that's often used to disenfranchise one person from the parenting process is the Ex Parte request for sole temporary custody. The purpose of these requests is to remove the child from the care and influence of the other parent. These pleadings are commonly heard in a judge's private chambers and the other party is not even notified that a complaint has been made. They often contain highly exaggerated and unsubstantiated claims made to gain a superior legal position rather than to present clear and convincing evidence of wrongdoing. The party who is granted the Ex Parte order gains possession of the children, establishes a custodial environment and forces the other parent to fight an uphill battle just to maintain contact with his or her own children.

I was divorced in 1999 in Washtenaw County following a custody battle which had lasted over a year. It started when my former husband left our marital home, seized our 8 and 13 year old minor children who were at his mother's residence, set up housekeeping in a different city and unilaterally enrolled them in another school district. He sought and received an Ex Parte order for temporary custody. Although that order allowed for reasonable rights of visitation, it left the decision for what that meant to my husband because the judge did not give any direction in the matter. Hence, I received almost nonexistent visitation. ***Since the day he took charge of our children over eight years ago, they have not spent one single night in my home.*** The longest time I have ever been with them is five hours. The judge chose to not take input from the Friend of the Court. Instead, we went the route of psychological evaluation and parenting coordinator.

The parenting provisions of our Judgment of Divorce proved to be unworkable. The judge did not ever issue any findings of fact concerning why I should not see my children and he did not deal with the matter of visitation. He simply stated that he would not force children to see a parent if they didn't want to. It's very sad but not surprising that children who are completely isolated from one parent and totally dependant on the other for everything might adopt this position. No evidence or witness was ever brought forward to show that I was an unfit parent, a substance abuser, was violent or had done anything that should prevent me from mothering my children, but I have not seen them since the parenting coordinator resigned in early 2001. I have been blocked at every juncture and it has been a very hostile and heart-breaking situation.

If HB 5267 had been in place when I was divorced it would have required clear and convincing evidence to eliminate joint custody and my family would be much better off today. My children have been totally cut off from all relationships on both sides of their family except for their father and paternal grandmother, including their three older siblings. They have been essentially orphaned from their mother.

Arguments are often voiced that HB 5267 would be unfair to women, that it would eliminate responsibility for child support, and place domestic violence victims at risk. Yet, I am a woman whose active mothering has been totally obstructed even though my full time job was wife and mother for the 20 years prior to the day of the marital separation. I pay child support for children I have had no contact with for 5 ½ years, and I was the victim not the perpetrator of domestic violence. I have encountered several other women who have also had very negative divorce experiences.

Regretfully, the stress of this matter has been so devastating to my health and well-being that I have suffered a stroke, breast cancer and recurrent heart arrhythmias which eventually necessitated open heart surgery. I have spent \$150,000 in legal fees and have incurred additional thousands of dollars in other costs. Poor health has resulted in lost income and opportunities. All five of my children could have been educated at the finest schools with the money spent on their parents' divorce.

This tragic situation could have been averted if my husband and I had been required to mutually develop and implement a plan for how our children would be jointly raised after our divorce. Instead, it became a vicious game of keep-away. HB 5267 can prevent a tragedy like this from happening again and I urge its passage.

Darrick Lynn Scott-Farnsworth
10591 North 45th Street
Augusta, MI 49012-9639

December 6, 2006

The Honorable John Stahl
Chairman, House Family & Children's Services Committee
P.O. Box 30014
Lansing, MI 48909

Dear Members of the House Family & Children's Services Committee:

I am a 38-year-old U.S. Navy veteran, husband and father of three. As a child I was denied a meaningful relationship with my father because my mother had sole custody. The state's antiquated "best interests of the child" criteria and the family law system failed me as a child, and now as an adult, because the system clearly believes that fatherhood is nearly meaningless compared with motherhood.

HB 5267 really does focus on what is in the best interest of our children, since social science studies and surveys have shown that substantially equal time with both fit parents gives children the best chance for success -- even when there is conflict between parents. Prior to my divorce I actively raised my children daily but most of my ability to interact with them has been taken away due to the cookie-cutter state allocated 20% child custody I now have. With the courts denying my attempts to gain more time by using the "substantial change in circumstances" wall I have come to realize that the laws must be changed, because it is in all children's best interest to have **HB 5267** passed.

I served my country and my state but when I needed them neither served me because they continue to deny my children the opportunity to spend more time with me.

Here are just a few examples of why we need **HB 5267**:

1. My lawyer, Mr. Bland, informed me that I was in trouble because Judge Harry Beach was a pro-woman judge and this knowledge led him to pressure me into settling. Surveys of family law attorneys illustrate that this is very common.
2. Friend of the Court custody investigator C.J. Osborne informed me that since I worked and my boys' mother did not that I was not going to get any custody and to not waste his time by insisting that he complete a custody investigation. This shaped my custody decision prior to the judge rendering a verdict and clearly points out that the current "best interest of the child" criteria heavily favors mothers by not valuing the time working fathers spend with their children.

- more -

3. Allegan County FOC Administrator Michael Day denied my grievance against Mr. Osborne based only on his verbal denial without interviewing others to see if he had done this before and then told me that if fathers were more like mothers they would get more custody time.
4. After my boys' mother moved out of her boyfriend's home and into her parent's, moving their school district that they had been in for 2 years, claiming that she was sick and was not going to be able to take care of the children I filed for a change in custody with her getting 35% custody or at the least as an alternative I requested he grant me 35% custody. At the hearing I was informed by Judge Beach that this was not a substantial change in circumstances and that my case is frivolous and that I just don't want to pay my child support.

The majority of custody cases are not ruled on by judges due to the bias I have personally experienced that discourages full investigations. From the state's own website, half of all divorces have custody evaluations performed with the state recommending sole custody to the mother in the super majority of cases. These actions in the investigation stage like I experienced or after the FOC custody evaluation pushes almost all parents into settling prior to final judgment and clouds the fact that fathers want to spend equal time with their children. This current family court system is not about what is in the best interest of the children it is about maintaining the system and is a betrayal of the state of Michigan's families. **HB 5267** will allow fit parents to agree on custody arrangements but will not allow children to be harmed by denying substantially equal access or much more equal time when parents don't live in the same school district. This bill will raise the value of parenting in Michigan and begin the rebuilding of the state's very social fabric by allowing children to be raised by both parents. Please think about the status of the state when it comes to the dropping marriage rate, out-of-wedlock births and sole custody children success and then ask: Are the laws we have now truly serving our children? I love my children and they me and we both need more time with each other so please vote "YES" on **HB 5267**.

Thank you for listening, and I would be pleased to answer any questions on this bill or this issue. .

Sincerely,

Darrick Lynn Scott-Farnsworth
10591 North 45th St.
Augusta, MI, 49012-9639

STANLEY CHARLES THORNE

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December 5, 2006

Michigan House of Representatives
P.O. Box 30014
Lansing, MI 48909

**Attention: The Honorable John Stahl
Chairman
Family & Children Services Committee**

**Re: HB 5267 (Mortimer) proposed amendments to 1970 PA 91,
by amending section 6a (MCL 722.26a)**

Dear Representative Stahl:

I am writing to you on behalf of the Family Rights Coalition of Michigan. They have directed my attention to House Bill 5267 and asked for my comments about it.¹ **As a prelude to my comments about HB 5267, I direct your attention to a document of extraordinary importance to you as a Michigan policy maker,** the text of Michigan's Supreme Court Chief Justice Maura Corrigan's recent speech about the family court litigation crisis. Chief Justice Corrigan's address was presented on June 14, 2006 as part of the Mackinac Center's Distinguished Visiting Speakers Program.

I urge you, in the strongest possible terms, to take the time to read Chief Justice Corrigan's address (copy attached).² According to Chief Justice Corrigan, a litigation crisis exists in Michigan today, as an astonishing 66 percent of all the cases filed in the circuit courts last year were family division filings.

¹ I request that this letter be included as part of the record of consideration of HB 5267 (Mortimer) by the Family & Children Services Committee. For your convenient reference, my perspective and credentials are reflected in the biographical information attached.

² The full text may be viewed in a more legible format or downloaded from the Mackinac Center's website at <http://www.mackinac.org/article.aspx?ID=7788>.

In my considered opinion, within one year of enacting HB 5267, the Michigan divorce rate will begin to drop substantially, precisely because of the statutory provisions for alternate residence of the child with each parent for specific and substantially equal periods of time in proposed Sec. 6a (1)(B)(4) and proposed Sec. 6a (1)(B)(8) (a) and (b).

Michigan's circuit courts are being overwhelmed by a tidal wave of domestic relations cases in various forms. The single most important step to you can take to begin to reduce this costly and growing problem is to reduce of the numbers of family division cases; the most direct way to do that is to enact, as soon as possible, proposed Sec. 6a (1)(B)(4) of HB 5267.

My other comments on HB 5267 are as follows.

Sec. 6a (1)(A)

The provision for a "clear and convincing" standard of evidence is consistent with firmly established Constitutional case law, and is in accordance with the holding of the Supreme Court of the United States in *Santosky v. Kramer*, 455 U.S. 745 (1982).

As set out in proposed Sec. 6a (1)(A), the standard is correctly worded and properly states a solid principle of Constitutional jurisprudence. If this standard (as it applies to determinations of parental fitness) is not already clearly expressed elsewhere in Michigan statute law, then it should be. In my opinion, the standard as expressed in proposed Sec. 6a (1)(A) accurately restates the law, reflects sound public policy, and should be enacted.

Sec. 6a (1)(B)

Proposed Sec. 6a (1)(B) simply describes the school aspect of the living circumstances of the child prior to divorce. In general, I refer the living circumstances of the child **prior** to divorce with the phrase, "**status quo ante-divorce**," and to the living circumstances of the child **after** divorce with the phrase, "**status quo post-divorce**."

As set out in proposed Sec. 6a (1)(B), the statutory provision to maintain the child's "status quo ante-divorce" school will greatly benefit most children of divorce. Continuity and stability in the child's school life will give the child

important psycho-social support during the period of instability inherent in the "status quo post-divorce" period of time, as the child's parents sort out their new living arrangements apart.

Such psycho-social support from the child's teachers and school friends is especially helpful to a child suffering from anxiety about the child's relationship with each parent during and following the divorce process. For the vast majority of Michigan school children of divorce, continuity and stability in school is especially important during the process of divorce and the first year after the divorce.

I believe this provision reflects genuine concern and compassion for the difficulties faced by each and every child of divorce when one parent's decision to change the child's school follows a divorce from which the child already feels a great sense of loss.

In my opinion, this provision will result in direct and substantial benefits to most Michigan school-children of divorce, and will not unreasonably limit the options for most Michigan parents. In those cases with unusual circumstances, the statute allows for, and the courts will provide, exceptions to the general provisions of the proposed Sec. 6a (1)(B). Consequently, I am of the opinion proposed Sec. 6a (1)(B) reflects sound public policy and should be adopted.

Sec. 6a (1)(B)(2)

Proposed Sec. 6a (1)(B)(2) provides for a parental notification which is consistent with due process and equal protection for each parent, as required by the Fourteenth Amendment of the United States Constitution. In the context of due process, such parental notification will serve to protect the fundamental rights of each parent, by delivering to each parent important information about legal options which implicate those fundamental rights. In the context of equal protection, all parents subject to state custody orders are entitled to notification of their parental custody options, without regard to whether or not the option suits their current circumstances.

The potential benefits to Michigan parents and children who are subject to state custody orders far outweigh the costs of such notification, which should be minimal in light of the normal, ongoing communication among those with concerns about the well-being of Michigan children of divorce,

such as their parents, family lawyers, judges, and school teachers. For all of these reasons, I am of the opinion proposed Sec. 6a (1)(B)(2) reflects sound public policy and should be adopted.

Sec. 6a (1)(B)(4)

Proposed Sec. 6a (1)(B)(4) is consistent with the fundamental right of each child to access to each fit parent, unfettered by state custody orders that needlessly hinder the ability of each parent to respond to the powerful need of the child for frequent and continuing access to both parents.

For the vast majority of Michigan children of divorce, frequent and continuing access to both parents during the process of divorce and the first year after the divorce is the single most important factor in their transition through the process, as their intact family structure is rearranged into separate households. Such psycho-social support from both of the child's parents is critical, during and following the divorce process, to minimize the child's natural fear and anxiety about what will happen to the child's relationship with each parent.

When faced with Sec. 6a (1)(B)(4) court orders, the vast majority of fit parents will then work out their own day-to-day arrangements that are more practical and suited to their unique fact situation. This construct will help most parents segregate their conflict as spouses away from the children, by keeping their spousal issues contained in the divorce process, and away from the children.

Consequently, conflict in the vast majority of custody cases will be moderated by proposed Sec. 6a (1)(B)(4) orders, so that many custody cases will need a little or no time or attention from Michigan's courts. That means scarce court resources will not be wasted on to custody cases that do not need them, so that more court time and human resources may be directed to high conflict cases where they are really needed.

Proposed Sec. 6a (1)(B)(4) will have little or no affect on the small minority of parents in high conflict divorce cases. They will be unable to cooperate and work out their own arrangements, but their disputes will be resolved in Michigan's courts where they would have been anyway, and those courts will have more time to address the high conflict cases, because of reduced court docket loads accomplished by largely removing most other custody

cases from the system. For these important improvements in Michigan custody law, I am of the opinion proposed Sec. 6a (1)(B)(4) reflects sound public policy and should be adopted.

Sec. 6a (1)(B)(8) (a) and (b)

Proposed Sec. 6a (1)(B)(8) (a) and (b) reflects respect for each fit parent as a "peer" of the other. Conceptually, this construct is absolutely gender neutral, fair to each parent, and consistent with the principle of equal protection of the laws, one of the bedrock principles of the American system of justice, as well as a requirement of the Fourteenth Amendment of the United States Constitution. I strongly believe proposed Sec. 6a (1)(B)(8) (a) and (b) reflects sound public policy and should be adopted.

Conclusion

HB 5267 generally expresses, in the form of a legal presumption in favor of "peer parenting", a profoundly important approach to child custody law which carefully takes into account, and balances, the needs and constitutional rights of parents and children subject to Michigan child custody law. I strongly believe proposed HB 5267 reflects careful thinking about how best to improve Michigan family law for the benefit of the most Michigan parents and children. I hope proposed HB 5267 will be reported out of Committee promptly, so that it may begin to move through the legislative process with all deliberate speed.

I appreciate the opportunity to present these comments on behalf of the Family Rights Coalition of Michigan. If you have any questions or need any additional comments or information from me, then (of course) I am available as resource for the Committee. Please do not hesitate to call or write to me if I can be of service.

Respectfully submitted,

Stanley Charles Thorne

Attachments as per letter

Stanley Charles Thorne

Stanley Charles Thorne is founder of the American Family Justice Project (AFJP), an interdisciplinary catalyst for family law reform based upon world-class research and analysis of the historical, psychological, sociological, economic, legal, and ethical aspects of marriage, divorce, and the nation's family law system. The mission statement of the AFJP is as follows.

The ultimate purpose of this organization shall be to bring about improvement in the laws of the several states relating to marriage and divorce and allied phases of family life, to the end that the law, in both philosophy and procedure, may tend to conserve, not disserve, family life; that it may be constructive, not destructive, as to marriage; that it may be helpful, not harmful, to the individual partners and their children; that it may be preventive, rather than punitive, as to marriage and family failure.³

Stanley's most valuable contribution to the work of the AFJP is his unique perspective on family law in America, a perspective shaped by over 25 years of rich life experience as a student of the political process, historian, policy analyst, attorney, counselor, mediator, speaker, author, legal system insider, and father of two sons (age 21 and 17) and one daughter (age 12). As founder of the AFJP, Stanley is committed to working within the legal system for the fundamental changes in family law needed to make it less destructive for parents, children, grand-parents, and American society.

Stanley was graduated from Baylor University in Texas, one of the leading private universities in the South. (Bachelor of Arts, History, 1977; Juris Doctor, 1981). Since being licensed in Texas in 1982, Stanley has worked for a diverse clientele, including large law firms and the corporate legal department of a major independent energy company. Stanley has been an attorney over 25 years, and he is an active member in good standing and currently eligible to practice law in the following jurisdictions.

³ These words were the core of the original mission statement of the Family Law Section of the American Bar Association. Judge Paul W. Alexander of Toledo, Ohio, author of "Public Service by Lawyers in the Field of Divorce," *Ohio State Law Journal*, Vol. 13, 1952, page 21.

All courts in the State of Texas, having been admitted to the State Bar of Texas on May 14, 1982.

The United States Court of Appeals for the Sixth Circuit, having been admitted to the Sixth Circuit bar on March 8, 2005, after being appointed, *sua sponte*, on January 26, 2005 by the Sixth Circuit as *pro bono* counsel for an indigent Plaintiff-Appellant father in the appeal of a facial Constitutional challenge to the State of Ohio's child custody statutory scheme, Case No. 04-3527, styled *Michael A. Galluzzo v. Teresa Cook f/k/a Teresa Galluzzo*.

***pro hac vice* in the United States Court of Appeals for the Second Circuit**, as attorney of record for Dr. Stephen J. Walker, in Case No. 05-0229, *Stephen J. Walker, Plaintiff-Appellant, v. State of New York, et al, Defendants-Appellees*. Dr. Walker's Application for Writ of Certiorari was filed on September 6, 2006 and is now pending before the Supreme Court of the United States.

***pro hac vice* in an Illinois state family court**, as attorney of record for Mr. Christopher Roney, in Case No. 00-D-700, *In Re: Marriage of Mary Kay Roney, Petitioner, and Christopher J. Roney, Respondent*, in the Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois. Mr. Roney's case is now on appeal pending before the Illinois Court of Appeals.⁴

Stanley has been lead or co-counsel in numerous trials in Texas courts and quasi-judicial administrative tribunals, argued numerous substantive motions for which briefs or memoranda of law were submitted, and prosecuted extraordinary writs and substantive appeals in Texas appellate courts, including the Supreme Court of Texas (the state civil court of last resort). In addition to the state and federal appellate court cases in which Stanley has been directly involved, Stanley has observed the argument of more than two dozen appeals in either the Texas Court of Appeals, or the Supreme Court of Texas, or U.S. Court(s) of Appeals.

⁴ Stanley is honored to serve as co-counsel on the appeal with two distinguished Illinois local counsel from Schiller, Du Canto and Fleck, Mr. Don Schiller, Esq. and Ms. Sarane S. Siewerth, Esq. Schiller, Du Canto and Fleck is the largest law firm in the nation focusing exclusively on matrimonial law. With principal offices in Chicago, the firm is nationally recognized for its work in the areas of marriage, divorce, and custody, and as a leader in the field of matrimonial law. For more information about the firm, see their web site. <http://www.sdfllaw.com/>

Stanley's practice is now devoted to an important mission: to return respect for the U.S. Constitution and the Rule of Law to America's family courts. To that end, Stanley litigates (in both state and federal courts) the Constitutional rights of parents and children in family court. Stanley is now lead counsel, co-counsel, or consulting counsel in a handful of carefully selected Constitutional test cases pending around the nation, including Wisconsin, New York, Illinois, Maryland, Florida, and Texas.

Stanley is nationally recognized as an expert on Constitutional rights of citizens in family courts and as an advocate for family law reform. Stanley has been a speaker at national family law reform conferences in Detroit, Michigan on June 17-18, 2005 and in Washington, D.C. on September 15-17, 2006. On September 14, 2006 Stanley attended the (invitation only) annual Symposium of the Institute for American Values in New York City. This year the Symposium was conducted at the Association of the Bar of the City of New York. The focus was Family Law Reform, and speakers included the Honorable Leah Ward Sears, Chief Justice of the Supreme Court of Georgia, and the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina.

More recently, Stanley was one of the speakers at the 20th Annual Conference of the Children's Rights Council entitled "Shared Parenting in the 21st Century - Exploring the Best Interests of Children" conducted at the Sheraton Crystal City Hotel in Arlington, Virginia November 3-5, 2006.

Stanley has frequently been a guest on radio to speak on family law reform. For example, he made numerous appearances during 2006 on PEP Talk, the weekly radio show of People for Equal Parenting (the largest syndicated parental interest talk show in the State of Texas) on KSEV-AM 700, the second-ranked all-talk station in the Houston, Texas market. On January 25, 2006 Stanley appeared for three prime time hours on the Dan Conry Show on KTLK-FM 100.3, an all-talk 100,000 watt "blowtorch" station in Minneapolis, Minnesota that reaches the entire upper mid-west. More recently, on September 29, 2006 he appeared on the Jerry Newcombe Show on WAFG-FM 90.3, an all-talk station that originates at the headquarters of Coral Ridge Ministries in Ft. Lauderdale, Florida.

Stanley regularly appears on television to inform and educate the public about family law reform. Stanley is co-host of CPR TV, a television program produced by the Center for Parental Responsibility in Minnesota

and distributed statewide for broadcast on local public access cable channels. Plans are in place for nationwide distribution of CPR TV by summer of 2007. The CPR TV format is commentary and interviews of experts on various aspects of family law. Examples of finished programs include interviews of Dr. Stephen Baskerville, political scientist, and Dr. Don Hubin, professor of philosophy (of law) at Ohio State University. Recent interviews for future broadcast include Phyllis Schlafly, founder of Eagle Forum. Stanley recently interviewed several of his clients on the grounds of the Supreme Court of the United States (for documentary purposes).

Stanley is currently involved in numerous media projects designed to educate the bench, the bar, and the public about the many problems experienced by parents and children in the current family law system and, more importantly, solutions to those problems. For example, in cooperation with Seeber Video and Film of St. Paul, Minnesota, Stanley is working on production of Continuing Legal Education video programs for family court lawyers and judges about the Constitutional rights of parents and children in family court. Additionally, Stanley is involved in the production of a documentary film entitled "Support: System Down" produced by Aginelo Productions in Los Angeles, California. The film is currently in the post-production phase, with plans to present it in 2007 at numerous film festivals, following a gala premier in Washington, D.C.

Stanley is active in various state legislative initiatives to reform family law. On October 26, 2006 he testified before the Study Committee on Shared Parenting of the Georgia House. On December 6, 2006 his testimony on Michigan's shared parenting bill, H.B. 5267 (Mortimer), was presented to the Michigan House. Stanley is slated to present testimony on family law reform to the Texas legislature in 2007.

Stanley's ongoing research into the history of divorce and custody law, and how the U.S. and state Constitutions apply to family law statutes and procedures, has led him to the conclusion that in child custody cases involving fit parents, the Constitutional imperative for equal protection of the laws requires state courts to treat parents as equals, unless and until clear and convincing evidence proves the parents are unfit, so as to trigger the *parens patriae* authority of the state to intrude into the parent-child relationship and act in the best interest of the child.

December 5, 2006

To the members of the House Family and Children Services Committee:

RE: House Bill 5267

Dear Committee Members,

I strongly support the passage of House Bill 5267. A vote for this bill is a vote for the children of split homes. Too often we look at custody through the eyes of an adult while saying best interest of the child. The real losers in custody battles are the children who are not allowed to be equal parts of both households yet our courts continually deny children those rights.

Many fathers did not ask to be in these situations. There are many fathers who want the responsibility of being a parent and are equally as capable of loving a child and caring for a child as any mother. There is no reason why either parent should be penalized by the loss of their children in a divorce, separation or a situation where the child was born out of wed-lock. Simply put, the child should have equal rights to both homes and the law needs to be structured to allow these children that right.

We fight against discrimination on all levels. A child in a split home environment is going to equally miss each parent, yet our courts have made a blanket statement that the child will be better off missing the father more than the mother. The courts have diminished the father's role in the lives of his children. In many cases a father will lose his home, his family, nearly one half of his take home pay and most importantly his children. This is discrimination at its highest level.

The current system creates more conflict than it avoids between split parents. The current structure makes it too easy for a mother to walk away from a marriage knowing they will most likely get the house, the money and the children. The current system allows mothers to move the children at a distance where a father could not possibly have a strong interactive relationship with his children. There should be legal consequences for custodial parents who leave a relationship or marriage for no good reason other than they just want to move on. There should be consequences for custodial parents who move their children away from a loving, interactive non-custodial parent to the point where the relationship with the children is strained or even severed. If the custodial parent wants to move, let them move without the children.

Custodial parents should not be allowed to move their children outside 25 miles in a situation where the non-custodial parent has exercised all their parenting time, especially in situations where the non-custodial parent has shared economic custody.

As fathers we miss our children every waking moment yet we have lost our right to actually be parents in many cases. Let the courts prove us unfit parents before you take equal parenting time away from us. Under the current system we are forced to have to prove the mother unfit before we can even qualify to have equal rights to our children, again, creating more conflict. The law was set up so that we are innocent until proven guilty, unless you are a father in the friend of the court system. Once you are in the system you are automatically guilty and will spend every resource you have available to fight and prove your innocence and worth as an equal parent.

If both parents are participating in the child's life then the laws need to be structured to protect the child. Those changes could simply be made by A) Allowing blanket joint physical custody in all custody cases unless one parent is proven un-fit or un-willing to take responsibility. B) Do not allow custodial parents to move more than 25 miles in a situation where the non-custodial parent has exercised above and beyond their court ordered parenting time. Because both parents brought this child into the world and they both owe it to that child to stay at a distance which is close for that child so they can have safe, comfortable, equal access to both households.

The current laws do not protect active non-custodial parents and they do not protect the children in these situations. They discriminate against fathers and if for one second you think that a mother's role in raising children is more important than a father's, you would be wrong.

Start looking at the current laws and structure through the eyes of a child who equally misses both parents instead of looking at them with your own personal agenda. If you are capable of doing that than I am confident you will agree we need change and we need it now.

Sincerely,

Ron St. Germain

47170 Lexington
Macomb Mich. 48044
586-206-9599

December 5, 2006

Dear Respected Members of the House of Representatives

Subject: Testimony HB 5267

I respectfully request approval and passage of HB 5267 with your support. Jim Semerad, Larry Herren and Dr. Mike Ross know me well enough to address any questions.

A brief bio and anecdotal reference as to why the children of this state need this to occur. For the record, I have Joint Physical Custody my daughter (Rebecca) age 14 and my son (Zachary) age 11.

Rebecca was age 4 at the time of separation. She is currently an all A student who is a very independent thinker and takes responsibility seriously and is very strong willed. I am told by those that know her abilities she can do whatever she wants based on her intelligence and commitment.

I can not take full credit for who Rebecca is today. My most notable contributions were: her strongest advocate during parent teacher conferences, volunteering at school for numerous events, defending her when a well meaning therapist felt she was attention deficit, keeping her in church, spending time to teach her lessons like fishing, swimming, sports, debate, respect, homework preparation, reading, being a part of the treatment plan for asthma, holding her hand when she went under anesthesia for tonsils and 3 surgeries for elbow repair and care of animals. When she is a mother her self with a child she will see the contributions in a mate that her father provided.

Zachary was 4 months old at the time of separation. He is currently a solid B student, very well liked by all who meet him (The mayor of Fraser invited him to follow her around in the daily activities of the city), a peer mediator very astute at seeing past conflict. His dresser is cluttered with trophies in both homes (Scouting, Baseball, Basketball, Soccer, and others).

My most notable contributions were: evaluating standardized testing in Academic placement, church involvement, teaching him fishing, swimming, bowling, responsibility, respect, homework preparation, manners, personal grooming, and public speaking. When he is a father I am sure he will teach his children other things that he learned by modeling me.

In conclusion, since the entry of the Judgment in 10 years Zachary and Rebecca have had opportunities clearly in their best interest. I ask you don't the other children of this state deserve those same OPPORTUNITIES?

Respectfully,

Roger Reichenbach

Lee Randolph
10513 McNally Rd Apt 101
Whitmore Lake MI 48189
734-449-0062

When asked to write this is brought to the surface feelings that I have kept bottled up for a year. By doing this I hope to express the outrage and sorrow that the current state of our custody laws have visited upon my family and I. My wife was asked to write something also but refuses stating "It won't change anything, why waste my time? I just don't feel like going there again". I can only pray that my story does resonate and reach your collective wisdom and through you true change will be made. If not for me but for others who have yet to face what I have gone through at the hands of the Washtenaw County Friend of the Court.

I have a son who is twelve years old and soon will be thirteen. I have not seen my son in over a year. His mother, Kim Gesco, removed him from the state of Michigan. She took him to the state of Kentucky. I brought this to the attention of the Washtenaw County Friend of the Court and they did nothing. Her removal of my son is in direct violation of state law and the custody agreement. I do not even know where my son is living other than Kentucky.

The only way I know he is in Kentucky is because the Friend of the Court in Hopkinsville recently contacted me wanting to know information about my healthcare insurance coverage that I have on Ryan. I referred them to my case worker in Michigan and told them I already have a case established here in Michigan.

This is not the first time she has disappeared with him. He was two and when his mother and I split up she took him and disappeared. When it happened I did nothing. I did not pay child support, I did not look for him, I let her take him and leave. After several years I finally resolved to be a part of my son's life. After searching for him I found him and his mother. I hired an attorney and got back into my son's life. Everything was fine until right before Thanksgiving last year. Kim was not at her home and it had looked like it was not lived in. All attempts to contact her failed. Then on Christmas there was a mysterious message on my answering machine. It was Kim and she was informing me that she was in Kentucky with Ryan. After the New Year I reported this information to the Friend of the Court and they stated it was known to them and there was nothing I could do about it. They recommended that I hire an attorney and start there. The lawyer I consulted with stated there wasn't much that could be done and what little that could be done would cost lots of money, up front.

This is how she does it, she leaves and the Friend of the Court does nothing about it. I wish that there was time to lay out all of the details and facts. The current laws need to be changed and I urge you to do so now. It may be too late for me, but not for others that are going through custody and visitation battles. Please changes the status quo, our children are depending on it. Please vote "YES" on **HB 5267**.

Sincerely,

Lee Randolph

December 5, 2006

Honorable Chairman Stahl
Family and Children Services Committee
Michigan House of Representatives

Dear Chairman Stahl,

I am writing this letter to offer our support of **HB 5267**. BOND, the Brotherhood Organization of A New Destiny, is a nationally recognized, 501(c)(3) nonprofit organization dedicated to "Rebuilding the Family By Rebuilding the Man." We have been in operation since 1990, and are known for our Home for Boys, After School Character Building Program, Fatherhood Program, mentoring, family counseling, and more.

HB 5267 will amend current law so that a parenting plan drafted and agreed to by both parents will be followed in custody cases following divorce, and in cases where parents cannot agree, the courts will presume the right of both parents to joint physical and legal custody of minor children unless there is clear and convincing evidence (not hearsay or without witnesses) that one parent is unfit, unwilling or unable to handle their parental responsibilities.

It is an undisputed fact that children need both parents--a father and a mother. The father's role is crucial, as he brings spirituality, proper correction, a father's love, finances, and physical protection to a family. When children don't have their fathers, they feel a void that cannot be fulfilled by anything or anyone else.

When fathers and mothers have conflict, it should not be used as an excuse to let the children suffer. Courts need to begin to rethink their actions relative to the interests of children. Whenever possible, a parenting plan should be implemented, and when that is not possible, joint custody should be awarded. Currently, mothers are awarded custody in the vast majority of cases. This is strong evidence of a bias without substantiation.

In many cases, women make unsubstantiated claims against fathers, oftentimes to "get back at" the father, and the courts too often take her word without proof. Fathers should never be put in a position of being automatically guilty.

For the sake of the children of Michigan, and on behalf of the BOND organization, I urge you to support **HB 5267**. If you have any questions, please contact me.

Sincerely,

Rev. Jesse Lee Peterson
Founder and President
Brotherhood Org. of A New Destiny (BOND)
P.O. Box 35090
Los Angeles, CA 90035-0090
(323) 782-1980
(323) 782-0122 FAX
patrick@bondinfo.org
www.bondinfo.org

November 26, 2006

House Family & Children Services Committee
P.O. Box 30014
Lansing, MI 48909

Dear Chairman Stahl and Members of the Family & Children Services Committee:

I urge you to please support **HB 5267**, which is coming before the House Families and Children Services Committee on December 6.

My shortened personal story goes...My nephew, John, had a son, Collin, on March 27, 2001. He was the principal caregiver for his son for the first 1/2 to 4 years of his life. John and Collin's mother, Sara, were never married, but they were engaged to be married. Sara suddenly broke the engagement to pursue someone else. John continued to try to encourage Sara to come back, mainly because he did not want to be a part-time Dad. John during this time had Collin approximately 75-80% of the time. When John saw that there was no hope for a family, he sued for custody of their son, as Sara was more interested in dating than being a mother. The fight went on for about one year, and during that time, the parenting time went to 50/50. At the end of the custody battle, John ended up with Collin about 28% of the time. It didn't matter to the court that he was to Collin his principal caregiver for most of his life.

I cannot tell you how this has negatively affected Collin and our whole family. Collin is now seeing a counselor, who agrees that this was a bad thing to do. He felt abandoned. John is now almost \$80,000 in debt to me trying to fight to get his son back with him at least 50% of the time. I will be stuck with a home equity loan for the \$80,000 if for some reason John is unable to repay it.

The courts fail to realize the damage and the heart-wrenching stories they are responsible for all over the state. When fathers aren't there, they are 'deadbeat', and the ones that want to be there are penalized by our system. It's just not the fathers that are penalized, it is the whole family. The court didn't just take time away from Collin and his Dad, they took Collin away from half of his family...a family that loves and adores him.

This cannot continue. Please vote to support **HB 5267** on December 6. If you should require any further information, all my contact information is listed below.

Thank you for your consideration.

Regards,

Cindy Holsworth
Waterford, MI
(248) 894-5393

The Measure of a Man

I was asked to type a letter for this committee outlining my experiences and feelings about my situation as it relates to my son. Though I know exactly how it has made me feel over the years I find it very difficult to put to words. It's not because I have a hard time talking about my emotions or because I don't know how to express myself well. Frankly it is a situation where there are no words to describe what has happened to me and my son or how I feel about it. I could never explain in words the frustration at being treated as an individual who doesn't really matter and has no standing in his own child's life. I could recount for you the battles I had to go through to get small amounts of cooperation from schools or doctors. I could go through the gambit of having someone schedule your child's counseling sessions when they know you cannot attend and then tell you of the appointment the night before. I could tell you of the torture at having things like, you don't make it to these aforementioned appointments thrown at you in court. I could go into numerous accounts of these types of situations. Instead just try to picture yourself raised to be a man with all that it entails. I was taught a man takes care of his family he protects them and he provides for them. I know in today's age that this seems a little sexist yet it is still what we teach our boys. I was taught that a real man is faithful, honorable, and true. I was taught that a man puts his family above all else. I was raised in this belief and I still have this belief that a man is merely a reflection of his family. That for a man family is the single most important thing on this planet. I and many more like myself were raised to these beliefs. You take all these things and role them into an individual and you have the identity of a man (his family). Now take it away. Tell this man who had his proudest moment in hospital watching the birth of his first born son that he is nobody. Tell him now that he can only see his child every other weekend 4 days a month and possibly an afternoon through the week.

Yes I believe I can tell you now how I feel I'm crying right now thinking of it. I still can barely put it into words I guess the best I could describe it would I'm numb. I have little joy left in that aspect of my life. Mainly I guess you could say I'm sad and depressed. Yet Friday is almost here and I get to see my son this weekend and then he can tell me all about what a rotten piece of garbage I am. We don't just get it from the courts and our children's mothers. We get it from the kids themselves. We wait to see them and then when we do we get to listen to all the things that have been said about us all week. I've been told you know you can just walk away. It's not in me I love my children regardless and one day my son will be a man and he will see the truth of things. The reason I am here today at this hearing is because of him. Not so I can get joint custody of him, but so he never has to go through this. It's my job to protect my family and I am merely trying to do that, by insuring that my son never suffer through the things I have had to.

Now you ask how does HB 5267 address these issues. That is simple. Through my entire case with my son I only ever wanted one thing. That is to be allowed to be his DAD not just his father the guy he visits. I only wished to be there for him when he needs help understanding what it is to be a man. Not to say I have all those answers. All I do know is through my life the people that made me the man I am today are my parents. It took both of them to raise me to be the person I am today. I am not perfect and I make mistakes, but I am a good father and try to set good examples for my children to follow. All I am saying is my son is entitled to the same a MOM and a DAD not just a parent and a visitor and hb5267 addresses this issue.

Sincerely,
Brett Frye
110 Clinton
Adrian Mi, 49221

Hello, my name is Susan Frye and this is my story:

I am the oldest of 5 children that my mom and dad had together.

Dad moved out when I was 12 years old and I was asked which parent I wanted to live with, I chose my mom. All I heard over the next few years was how my dad never had time for us kids and how he never called. But I always wondered who kept calling and mom would keep angrily hanging up the phone, she never told us who was on the phone. As the weekends and holidays came and went dad was sometimes late my mom "punished" my dad and wouldn't let us go with him saying "if he wanted you that bad he'd be on time". There were a lot of occasions that we had to go to our rooms so mom could "talk" with dad, then the next thing we knew dad drove off. Later we discovered that mom had told dad that we wouldn't come out of our rooms and we didn't want to go with him. Many weekends we would spend crying because of my mom's games. I will never forget the Christmas that dad called and was running a little late, weather was bad, he had to drive over 200 miles to get to us, anyway, mom called the police to have him picked up on a warrant due to past due child support, let's just say we didn't get to see our dad that year for Christmas. That was one of the many things mom would do just to make sure we didn't want to be with our dad. She was always telling us that he never had time for us and all of the lies and brainwashing were really getting old. I got fed up at age 16 and went to live with my dad. We had many talks and now I know that mom hung up the phone when he called, threw away the cards that he sent us and that he tried to make time to be with us but when he was late mom told him we didn't want to go with him, he could see us from our bedroom windows crying as he was told to drive off or go to jail.

I was happy to live with dad and a lot of stress faded from me. Life was much different, I had to work to get the teenager things I wanted, my dad was having a very hard time with all that child support and the rent and other bills. I still went with dad on the weekends to visit my brothers and sisters, and thankfully I didn't have to stay with my mom while they were with dad. I tried to talk with her when I could but, we always ended up fighting. Over the years, I've been married twice and not once did mom show up, call with a blessing or even send a card. That showed me how much she wanted to be a part of my life. I gave birth to a baby girl in April 2000, again my mom couldn't be there unless she was allowed in the delivery room, well, let's just say I had everyone there who I wanted to be there My husband and my Aunt. There have only been a few phone calls, pity parties as I call them and a couple of cards here and there over the years, I've tried to form a relationship with her, I guess it wasn't meant to be.

When I married my husband, I was blessed with a step-son. I love that boy very much and took him in as my own. I don't treat him any differently than my little girl. I feel very sorry for that boy. I see many of the same deceptions and lies that my mom had done to me and I am very afraid that he also will grow up to hate his mom and to have a distant relationship with his father as do I.

Through passage of this bill you can insure that children are allowed to see both parents and can prevent a parent from abusing a situation of power over another parent and insure the involvement of both parents for a child.

Thank you for your time,
Susan Frye
110 Clinton
Adrian Mi, 49221

Family & Children Services Committee

December 4, 2006

Re: **HB-5267**

From:
Dave Taylor
16950 Buckingham Ave.
Beverly Hills MI 48025

Dear Committee Members,

I commend you for your **YES** vote in **support of HB-5267** in hearing on Wednesday. I am a divorced father and my daughter Rebecca turns 6 today. The best birthday gift you can give Rebecca and every child in Michigan is both parents in their life.

My personal rights as a citizen have been trampled in Michigan, why? Because Rebecca's Mother decided she didn't wish to be married any longer! The fact is, **the laws of Michigan do not protect me or my daughter**. Four years ago my former wife walked into the Oakland County court house and made false allegations labeling me a criminal, broke up our family, bankrupting my household due to the legal bills and has kept Rebecca from having a proper and continued relationship with both parents. Presently it is "standard operating procedure" here in Michigan when someone initiates a divorce to file charges "false allegations" against the defending parent. **House Bill 5267 will protect loving and involved parents** like me from the tyranny that my daughter and I have been forced to live with. Presently the laws of our state empower corruption in family matters. Presently the laws of Michigan support the destruction of family and incentivize divorce. As a citizen of Michigan I implore your committee to **support HB-5267** and protect our rights under our U.S. Constitution.

Dave Taylor
Rebecca's Daddy

Earl E. Frye
2822 Burwyn Hills Dr.
Tecumseh Mi, 49286

December 3, 2006

To Whom It May Concern:

I am a father and a grandfather brought up on the premise that "you can't fight city hall". I pride myself on honesty and hard work and have raised my children to aspire to the same goal. Many things have changed over the years and I can see that the climate of our country demonstrates this not to be an over riding factor for success in today's society. Despite this I still feel that these are strong principles to practice in life.

Circumstances of the family have changed over the years and it is time that these changes are reflected in the manner of which government business is done. Do you realize how many fathers and grandfathers are affected by laws that do not reflect today's young family? I see my son live in poverty and struggle to make a life for his daughter and wife, and also try to pay child support for his son. I have witnessed my grandson's disrespectful verbal attacks on my son because he can't afford to purchase the things my grandson wants, or to live in the fashion he expects when he "visits" on the week-end. He doesn't seem to realize that his family is barely making ends meet. I have listened to his verbal attacks on my daughter-in-law because according to him she can't tell him what to do. He does not realize the sacrifices she makes in many ways, not just financially, that positively affect him. I watch as during family gatherings his contempt for his living situation is openly shared. We understand his confusion and still love and support him but it is challenging. I am aware that this scenario will likely be replayed again in my grandson's life, only this time he will be the father. He will, I pray, then realize what his father's life was all about.

Legislators **wake up!** The current laws foster reliance on an outdated and unrealistic system which does not recognize or promote the responsibility of both parents to intelligently create a compromise that would work in the child's best interest and allow all parties to continue their lives in a respectful adult fashion. Fortunately I did not come from a divided home, nor did my children; I believed the current laws were needed because of fathers that were less than diligent in their responsibilities, I was very inexperienced and ill informed. I am now informed and I am also witness to not just my son's convictions and love for his children but many of his friends, and a host of males I have come in contact with through work, as neighbors, and as friends. Some are grandfathers that wanted to share their experiences with their grand-children but now can't because of various court imposed restrictions which limit the opportunity to be together. I do plan to continue to be informed and inform others.

Popularity is a matter of perception and as politicians it is an important part of your occupation. I want you to know that I love my children as passionately and unendingly as my wife does, my life would have been destroyed if I had to endure the separation and the resentment from them as I have seen my son have to do. I repeat, I believe in honesty and hard work! Compromises are hard work, but with honesty it can be accomplished. Don't underestimate the strength of your constituency or insult their intelligence by not listening to both sides of the issue. Change is difficult but not impossible. Don't continue to do the usual because of a lack of commitment or fear of change. House Bill 5267 is a start.

Sincerely,

Earl Frye

SUPPORT HB 5267

In support of the North Dakota Shared Parenting Initiative I published 2 letters in the Grand Forks Herald. I would ask that you consider the arguments contained in these letters as they are equally applicable to HB 5267. Please feel free to contact me if you wish any additional information.

Gordon E. Finley, Ph.D.
Professor of Psychology
Florida International University
Miami, FL 33199
Work: 305-348-3190
Cell: 305-495-8962

<http://www.grandforksherald.com/articles/index.cfm?id=11746§ion=Opinion>

GrandForksHerald.com

IN THE MAIL : Parenting initiative: Pros and cons
- 09/30/2006

*Support win-win initiative, not lose-lose status quo **MIAMI** - While North Dakotans are being exposed to a great deal of information and disinformation about the Shared Parenting Initiative, much of the rhetoric really boils down to three potential losses:*

-- Most of the men and women who support the initiative do so because they have their children to lose.

-- Most of the men and women who oppose the initiative do so because they have money to lose. Remember, the initiative would cut the incomes of divorce lawyers, custody evaluators and domestic violence providers, whose fees shrink the family income-asset "pie" and who leave parents to fight over the remaining crumbs.

-- The children of divorce have one or both parents to lose.

Science is on the side of the initiative. It shows that children of divorce do better in shared parenting arrangements than in sole custody arrangements - and, critically, that if children of divorce are forced into sole custody arrangements, they grow up missing the noncustodial parent very much.

So, North Dakotans, the choice is yours. Vote win-win for the children and parents of divorce or lose-lose for the money vultures of the divorce and domestic violence industries. Gordon Finley

Finley is a psychology professor at Florida International University.

<http://www.grandforksherald.com/articles/index.cfm?id=15532§ion=Opinion>

VIEWPOINT : Listen to the children of divorce

Published Friday, November 03, 2006

MIAMI - As a research psychologist and writer on family policy, it is my view that the parties who experience the greatest lifelong consequences of divorce ought to have the greatest voice in determining the structure of the post-divorce family.

Unfortunately, in divorce, the most affected are the least heard. To correct this imbalance, please consider three brief facts from peer-reviewed published research which I hope will lead Herald readers to support the Shared Parenting Initiative.

First, more than a half dozen studies indicate that when young adult children of divorce are asked to look back over their lives, they overwhelmingly wanted to have had more contact with their fathers when they were growing up. Second, and specifically, a national survey of 1,500 young adults found that more than 60 percent of the children of divorce reported that they often missed their fathers, whereas the opposite was true of children from intact families.

Third, and most critically, 70 percent of both young adult men and women believe that the best post-divorce family structure is equal amounts of time with both parents. And, most of the remaining 30 percent wanted a substantial number of overnights with dad.

As parents and as citizens, if you are not willing to listen to the lived experiences of the children of divorce, who are you going to listen to?

Gail L. Frye
2822 Burwyn Hills Dr.
Tecumseh Mi, 49286

To Whom It May Concern,

December 1, 2006

Recently my son spoke to me about House Bill 5267 and at first I didn't understand the scope of what the bill is actually trying to address. You see I came from a generation where families were intact. I don't remember any of my friends not having a father and a mother. My parents worked as a unit through tough and distraught times raising us children. They didn't always agree but they stayed together and worked through their problems. In retrospect I realize that my husband and I both came from this type of background and have also held our commitment to each other and our children to the same high standard. Relationships and life situations have changed drastically over the last couple generations and there is no debating that. The quandary is why is it necessary to choose one parent over the other if both individuals are fit loving parents?

My experience as a teacher, wife, parent, and grandmother tells me that the courts have tried to fix a situation for which it can't and therefore resulting in the perception in most cases that the father is less capable of raising children, and that he does not possess the ability to love his children enough to be anything more than a week-end baby sitter. The implication of this is devastating to both parents and the children. The degeneration of the child parent relationship is now divided because the court says one parent by virtue of being female and the other by virtue of being male are separately and unequally responsible for the raising of their children. I understand that under the current laws that the courts look to many factors to come to these determinations yet as I see the court fails to understand exactly what it is that the children are losing when they relegate one parent to peripheral role and leave them little interaction with their children.

My experience as a classroom teacher has provided me with many opportunities to witness parents involved in many different types of situations. The psychological adjustment of children is always impacted by the decisions made by involved adults. The ramifications are varied and often detrimental to the child's behaviors. While parents may not agree I have witnessed fathers, as well as mothers, that are motivated by their understanding and love of their children. It is helpful in such situations to consider both parents views and work on outcomes that best fit the child's needs.

The opposition to this bill brings forth many arguments under the guise of domestic violence and woman's rights. Some of these arguments seem to prove to be something that we should truly look at as a society. Yet many of the things that I have seen seem to hurt far more people than they seem to help. We live in a society where the mere allegation of abuse is enough to win the children so to speak and this has become a tool used all too often in divorce and custody cases. I feel as a woman and a mother that it is demeaning to women and counter productive to the efforts that many women have fought to gain that this be allowed to remain.

My personal story revolves more around my son and my grandson. I cannot tell you truly how I feel in this instance I can merely attempt to briefly tell my story. I am a grandmother of 5 grandchildren. My oldest grandson and I have always had a special relationship. Yet through the years and the courts and the fact that it seems every year my son has less and less time with him. I sit back in total frustration and powerlessness. As a parent I see how my son suffers from the degradation of his relationship with his son. I honestly cry for him as I see it break his heart. I watch as I see my grandson has less and less respect for his father. I watch as he treats my son as what the court system has made him, a visitor in the life of his own child. As a grandmother I cry for my grandson not just because I see the damage that could have been avoided. I cry also because I was once close to my grandson and he was close to me. We would talk and do many things together. Now I dare say with each passing visit I watch that relationship slowly slip away and fade little by little. This is not from lack of trying on my part to engage him and spend what little time we have been left with him. The thing that breaks my heart the most is the knowledge that my son is a good father and does not deserve this, but more importantly neither does my grandson.

Sincerely,
Gail L. Frye

Hello all,

I urge you to vote in favor of HB 5267's mandate for joint custody. I am living proof of the current system's limitations. After my divorce in 1998, I saw my son on a constantly changing and shrinking schedule. Said schedule was based entirely on my ex-wife's desire for me to see my son. After spending a huge amount of money and months in court, I discovered the court system and the FOC were only interested in child support payments and not my parenting time or the best interests of the child. To date, I have not seen my son in over three years. Holiday and birthday cards are never acknowledged, presumably he never gets them.

Again, I urge you to help us parents who have been failed by the current system. Your actions may help save a parent's relationship with their child. Our educators and professionals all agree, it takes two parents to raise a child.

Best regards,

Steve Bredernitz
sbredern@comcast.net
2114 Windmill Way
Saline, MI 48176

December 2, 2006

To Whom It May Concern:

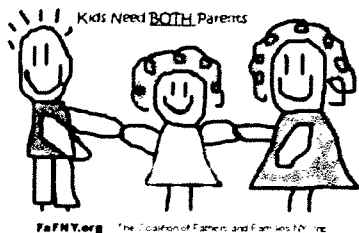
This letter is in support of House Bill 5267. I am writing this because of my personal experiences with my nephew. A plethora of research supports the premise that children need two involved parents to guide and support them. I am a classroom teacher and see the anxiety and anger that is a result of confused and scared children.

I have witnessed my nephew's confusion and anger as he is less and less a part of the lives of our extended family. I have seen a regular decline in the quality and quantity of time that he is able to participate in family functions. Family activities often are scheduled with a consideration of the days he is here but even then it is difficult to always include him. My brother has had to take my nephew home in the middle of many birthday celebrations, holiday celebrations, and family functions. I see my children being distanced and having less involvement with their cousin as he becomes more of a stranger with each passing year. This lack of involvement is an exception in our family because all the cousins have a close and caring relationship. They play with each other and look forward to these gatherings.

My entire family has made efforts to participate and support my nephew in his endeavors. We have watched him in sporting events and school functions whenever we were made aware of them; even last minute notices. Often my brother isn't even told of them unless it falls on a week-end and he needs to provide transportation for him to the event.

I love my nephew and only want what will provide him with a stable and sound relationship with his entire family. I want him to be happy and be able to experience what my children are able to experience with their cousins, aunts, uncles, and grandparents.

Sincerely,
Tara Schnaidt
9525 Shady Dr.
Tipton, Mi 49287



The Coalition of Fathers and Families NY, Inc.
The NY affiliate of the American Coalition of Fathers and Children

"Working to Keep Fathers and Families Together"

December 1, 2006

The Honorable John R. Stahl
Chair, House Families and Children's Services Committee
Michigan House of Representatives

Dear Chairman Stahl and Committee Members:

The Coalition of Fathers and Families NY, Inc., who speak on behalf of the 2.5 million "non custodial" parents in New York State encourages the Families and Services Committee to vote for bill **HB 5267**.

From the Law Guardian Reporter published by the Appellate Division of the Supreme Court of New York State (August 2006 Volume XXII, Issue III);

"Only with frequent contact may a non-custodial parent provide his child with the guidance and counsel youngsters require in their formative years."

The decision to bear children moreover, entails serious obligations and among them is the duty to protect the child's relationship with both parents even in the event of a divorce."

HB 5267 is sponsored by Rep. Leslie Mortimer (R-Horton), who has been joined by 10 other legislators. When parents cannot agree on custody arrangements, the bill instructs courts to order joint custody unless there is clear and convincing evidence that one of the parents is unfit, unwilling, or unable to care for his or her child. A mediator will then help the parents draft a shared parenting plan based on each parent having substantially equal time with their children. The principle behind the bill is difficult to dispute--as long as both parents are fit and there are no extenuating circumstances, they should both share in parenting their children

The report further stated: interference between parent-child relationships is an act *"inconsistent with the best interest of the children"*.

In support of Michigan's children and families FaFNY encourages you to pass **HB 5267** and strengthen parent-child relationships in the interest of children.

Sincerely,

Mr. James H. Hays, Jr. President

December 2006

Chairman Stahl and Members of the House Family & Children Services Committee:

I strongly support **HB 5267**. It is the first small step in the right direction to protect our children. Our children need the protection and all the support they can get from both their parents. A child's natural parents provide this protection and support better than a foster parent paid to provide this support.

Unless there is criminal evidence beyond reasonable doubt supporting that the child might be harmed by either of their natural parents, then the child should be raised by their natural parents. Children are thus supported by their parents which are the foundation of the family. So to support the children, our society must support the parents, both parents. To best support the triangle that makes up the family, all the lines need to be connected. If you break any of the lines, then you weaken the triangle, the family, the support for the child.

Under the present family and social security laws interpreted by government agencies such as the Department of Human Services (DHS) and their contractors, all financial support and energy is directed at breaking apart families and placing all blame and severe financial burden on the parents. The ultimate goal with the most financial return in the short run for the government and its agents above is to remove all children from their natural parents and place them in foster care homes with foster parents not related to the natural parents. The opposition to the above bill totally misses the point of the bill. The opposition's main arguments stem from the assumption that the family has already been torn apart by the above such that it cannot be repaired. This is the primary problem. To fix the family and to remove the female-domestic violence bias that is the most powerful argument against this bill. This is the primary flaw.

In my personal experience and seeing many others in similar situations caught within this corrupt "system," women are told that if they don't make false allegations of domestic violence then their children will be taken away because they failed to protect them. The "system" coerces them to distort the truth so that almost any normal non-threatening behavior by a male can be considered domestic violence. One woman I met caught in the system was told by her caseworker that she could not date men because it "upset" her children and they would be taken away if she did not comply.

The system constantly violates the civil rights of children and their parents which are the foundation for their support. All the system is financially motivated to do is to break families apart and remove their children from them because in the words of one attorney, "their parents are all crack whores." In the system I am in, I haven't seen such parents. The system has no financial incentive to provide support for families at risk. These families need this support because they don't have other support. But instead of the system providing support for these families, it tears out the last straws holding them together. Supporting families and working and investing money into trying to keep them together and healthy, should be the primary goal to provide the most long term benefit for our society. Unfortunately, the "system" does just the opposite. It is up to the legislators to fix and this bill is the first step there.

Sincerely,

David Eilender, M.D.
Assistant Professor of Medicine
Division of Hematology/Oncology
Karmanos Cancer Institute
Wayne State University

National Family Justice Association

NFJA.org

Midwest Regional Office:
26677 W. Twelve Mile Rd.
Southfield, MI 48034
Phone: (248) 355-2511
Fax: (248) 355-2511
Email: NFJAPres@aol.com
www.NFJA.org

November 29, 2006

RE: MICHIGAN HOUSE BILL 5267 – SHARED PARENTAL RESPONSIBILITY

AN OPEN LETTER

To All Concerned Michigan House Legislators:

Next month, the Michigan Legislature will once again take up legislation designed to place the responsibility for rearing and supporting our state's children squarely where it belongs...with both of their fit parents. For more than two decades now, policies and procedures used both in the state bureaucracy and the courts have served to maximize federal funding sources at the expense of Michigan's children and their families. This occurs via federal Title IV Welfare [of the Social Security Act] incentive funds earned largely through the forced segregation of one parent (mostly fathers) from his/her children during divorce, child protection, foster care and adoption proceedings. As a result, with only a fourth of California's total population, Michigan amazingly has 42% of its 2.5 million families in Title IV-D (child support) programs compared to only 18% of California's families firmly establishing Michigan as having the largest per capita participation of families with minor children in the federal Title IV-D program in the nation.

While all branches of state government can be held accountable for expanding the Title IV-D welfare program to include any and all private cases where there is absolutely no compelling state interest, the state legislature can be considered a primary culprit. However, the state legislature is presented with yet another opportunity this legislative session to reverse course and place our state in a forward direction for prosperity.

Michigan's **Shared Parental Responsibility Bill (HB 5267)** seeks to restore true shared parenting responsibilities to both parents of minor children in legal custody disputes...unless a parent is otherwise proven unfit, unwilling, or unable to care for the child.

In doing so, this significant legislation recognizes the numerous research studies that show children fair far better emotionally, behaviorally, and educationally when both their fathers and mothers remain significantly involved in their lives via shared custody arrangements despite the separated households. A consequence of **HB 5267** will likely be reduced crime and disorder in our state over the ensuing years and decades.

Additionally, the bill minimizes school schedule interruptions for the affected children and protects the guarantee provided by the U.S. Constitution and affirmed by several U.S. Supreme Courts that **parents [plural] have a fundamental right to the care, custody, and control of the rearing and upbringing of their children...and that strict scrutiny and a compelling state interest is required before the state can interfere with parental rights.** [Note, more federal funding does not constitute a compelling state interest]

November 29, 2006

Since the 1980's, Michigan and some other states have usurped the protected equal rights of parents to their children by implementing designations of "custodial" and "non-custodial" parents in order to justify the inclusion of "never-assisted" middle-class parents into the welfare system and thus 'qualify' the state for increased federal funding and incentives. This process was documented a "Fleecing of America" in a 1995 General Accounting Office (GAO) report to Congress but nonetheless has continued unabated. Inasmuch as the Michigan Department of Human Services demands the largest state budget along with the Department of Education, **House Bill 5267** will undoubtedly serve to place more of the responsibilities where they rightly belong...with the parents and not the state; thereby reducing Michigan's welfare burden and our chronic budget-balancing crisis.

Finally, during our recent state electoral process, nearly every candidate for public office promised to create or bring jobs into our state. Sadly, none of these candidates seemed willing to admit that despite many positives in our state, the negatives will always gleam larger in the minds of prospective or relocating employers. Michigan's overall excessive crime rates and rapidly decreasing quality of life factors will likely continue to discourage new employment growth in the near term, especially in our state's larger urban centers. The long-term solution to this problem is as old as humankind itself...our families! Research demonstrates that family disruptions created by divorce, single-parent households, and other child/father *non-access* promote significant behavioral problems that lead to violence, crime, and incarcerations especially among minority concentrated populations. This phenomenon has created a self-perpetuating 'vicious cycle' of crime and violence as fewer dual-parent family environments are formed. As perhaps it is an unintended consequence, but Michigan state government has heretofore served to perpetrate the civil rights issue of the 21st century...fatherless minority children!

"We at NFJA wholeheartedly support HB 5267 and believe astute, judicious Michigan legislators will also support this bill while the prejudicial, status-quo legislators will likely oppose it." Will you be counted among the former?

Submitted by:



Murray Davis
Board President

Cc: Jane Spies, executive director

Notable Quotations

"Evil triumphs when good men do nothing."...*Sir Edmund Burke, the great 18th-century Scottish philosopher and British parliamentarian*

"I have come to believe that the one thing people cannot bear is a sense of injustice. Poverty, cold, even hunger, are more bearable than injustice"...*Millicent Fenwick, US diplomat & congresswoman*

"Protecting America's Greatest Resource...our Families™"

CHILD OUTCOMES OF INVOLVED FATHERS

By Kyle D. Pruett, M.D.
Family Psychiatrist and Author
Yale University Child Study Center

Behavioral

- Reduced contact with the juvenile justice system
- Delay in initial sexual activity & reduced teen pregnancies
- Reduced rate of divorce
- Less reliance on aggressive conflict resolution and reduced domestic violence

Educational

- Higher grade completion and income potential
- Greater math competence in girls
- Greater verbal strengths in both boys and girls

Emotional

- Greater problem-solving competence
- Greater stress tolerance
- Greater empathy and moral sensitivity
- Reduced gender stereotyping

The Question posed to several of the nation's top social science researchers by Murray Davis:

"Considering: a) the recent Quitno Press Awards finding cities such as Detroit with large segregated African-American populations among the most dangerous in the country, b) the large percentage (70%) of single-parent family households among African-Americans headed by mothers, and c) the large percentage (65%) of African-American fathers *involuntarily* excluded (e.g. segregated) from their children's lives by systematic state processes and procedures...***is it possible your prior research may have also inadvertently uncovered a tangible connection between African-American violence and fatherlessness as well?***"

see Morgan Quitno Press at: <http://www.morganquitno.com/cit03pop.htm#500,000+>

+++++

[the email reply to: M. Davis, Dads of Michigan, 1/21/03]

RE: FAMILY DISRUPTION AND SOCIETAL VIOLENCE

Mr. Davis..."A growing body of research suggests a vicious cycle linking family disruption and violence. A high prevalence of single-family households in a community is associated with high rates of violence, especially among males. Moreover, widespread involvement in violence on the part of males distorts marriage markets (in part through incarceration policies) and increases the likelihood of single-parent families. These processes have had a particularly strong impact within the African American community, although they seem to apply more generally. Breaking the cycle is clearly a profound challenge for the nation" ... SFM, 1/21/2003

December 5, 2006

To the House of Representatives concerning **HB 5267**:

I write to you in support of this bill allowing the ability for a father to be involved in his child's life. While I have only seen my son 15 times in the last five years, his suffering for that runs deep. Manic depression, compulsive disorder all which he is receiving help for. While this bill is a bit late for him and I, I know that if allowed to be a part of my son's life, these issues, which are partially to blame on social issues from his mother and my separation would be different. He feels inadequate, and is often angry. These are the very things that this bill will help with future children. If the legal system is going to be involved in this, then let them understand what their decisions are doing. I support this bill and ask you to do the same.

David F. Spencer
Senior Design Engineer
Williams International

December 5, 2007

Dear Michigan Representatives:

In the past, I have sent letters, made phone calls and spoke directly with anyone that might be involved with the passing of HB 5267.

As the time draws nearer to discussing this bill I implore one last time that those involved with the decision regarding the passage of this bill remember yet another family that could have benefited from equal parenting, namely my husband.

The time with his children has been severely restricted, regardless of FIA and Guardian ad litem recommendations that he have full custody predominantly because of mother's FIA charged neglect. The oldest daughter is still in psychotherapy, for the fourth year, and both have behavior problems and beg to spend more time with their father and our family.

As a custodial parent of my son and daughter, and the non-custodial step-parent of my husband's children, I have witnessed both sides. I personally, without the aid of FOC, gave my ex-husband equal parenting time for the last 8 years. Our youngest son is 15 and a star football player with pretty good grades. The oldest, 21, has been happy, well-adjusted and is in her 3rd year of college and employed with a great corporation. They grew up needing discipline, attention and special time from both mom and dad. It wasn't always easy, but there was no other option for us as we saw how much the children benefited from this arrangement. Asked if they wanted equal time changed, their answers were always, no. We are proud of them both and have received many compliments for the extra work it took to raise such awesome children in a non-traditional way.

There is absolutely NO reason HB 5267 should not pass. As an ex-wife and mother, I think it is atrocious and detrimental to our children that anyone, mother, father, Family Court Representative or Judge, should restrict time with either parent, as long as there is no obvious and documented reason such as abuse/neglect or inability. As I have stated before, this becomes a humanity issue primarily because of something no one can argue against-natural law: our offspring are genetically 50% from each parent and denial of 50% time is breaking ethical and constitutional rules. There is no right reason for anyone in society to dictate anything else but fair time with each parent if it is deserved and the children benefit so greatly from it? I had the option and I certainly could not!

Thanks once again for your time and assistance. I pray for the NCP's and children that the passage of HB 5267 will forge a path of better family relationships and less troubled children.

May I also add that I have paid close attention to the Representatives that took the time to discuss their views on this issue. Especially the persons that went the extra mile to see it through this far! Even more than the HB itself, it shows principle and what our appointed officials stand for!

Sincerely,

Laura Lovelace-Blewett
Registered Voter

Milford, MI 48381
248-496-2210

December 6, 2006

Family and Children Services Committee
Michigan House of Representatives
Lansing, Michigan 48909

Re: House Bill No. 5267

Dear Members of the Committee:

Thank you for providing this opportunity to express my views concerning House Bill No. 5267.

As an initial matter, I believe it is important to dispel the notion that this bill is solely calculated to deal with the gender bias that exists in the Michigan Family Court system. The strong bias against joint custody in disputed cases inexorably leads to a one size fits all result in the vast majority of cases wherein one parent is awarded full custody, and the other parent is awarded parenting time consisting of a few hours once a week and every other weekend.

Even if all gender bias were to be removed from the system at this instant, this would simply mean that children would be denied access to their mothers with the same frequency with which they are denied to their fathers. Willing, fit, and able mothers would then be denied a meaningful role in their children's lives at the same frequency as willing, fit, and able fathers. Surely this result is just as repugnant to fair minded individuals and as harmful to children as is the current system.

There has been much discussion concerning the perceived need for judicial discretion in child custody cases. It is, however, widely accepted that unlimited discretion is not warranted in all circumstances involving child custody. For example, Michigan law was recently changed to prohibit a court from considering a parent's absence due to military service in a child's best interest determination. It is worth noting that the Family Law Section of the State Bar opposed this bill, stating that "The bill directs the court to ignore reality." Clearly, a rigid belief that all other considerations must give way to "judicial discretion" leads to absurd results that are at odds with the considered views of the citizens of this state.

In *Troxel v. Granville*, 530 U.S. 57 (2000) the United States Supreme Court struck down a statute that granted visitation to third parties if the court determined that it was in the child's best interests, stating that the statute under consideration "Contains no requirement that a court accord the parent's decision any presumption of validity or any weight whatsoever. *Instead, the Washington statute places the best-interest determination solely in the hands of the judge.*" (emphasis added) Thus, rather than holding that judicial discretion is a fundamental principle worthy of protection, the United States Supreme Court struck down the statute as unconstitutional on the very basis that it gave sole discretion to the court to determine the child's "best interests".

It is also worth considering the fact that the vast majority of parents involved in custody disputes simply cannot afford a full blown trial under the current system. Judicial discretion cannot be expected to result in sound decisions if the facts of a case are not developed.

Concerns with respect to domestic violence have also been raised. These fears are not grounded in fact.

As stated by two eminent researchers who have studied the issue: "There is concern from joint custody opponents that the assumption of shared parenting may escalate the level of violence already present in the family. *Empirical knowledge does not support this fear.*" Marsha Kline Pruett, Ph.D and Christa Santangelo , Ph.D, The Scientific Basis of Child Custody Decisions 413 (1999).

Another fear that has been raised by opponents of the bill is the effect of a child spending time in two different households. This presumes that children do best when their environment is static, unchanging and devoid of new and diverse experiences. In today's world, parents (including custodial parents) regularly rely on daycare providers, friends, and family to care for their children when they are working or otherwise unavailable. It is not reasonable to assert that care by a daycare provider or other third party is benign, yet time spent with a parent is somehow harmful to a child.

Questions have also been raised with respect to how certain parts of the bill will be construed by a court.

Similar questions could be raised with respect to virtually any proposed legislation, but this does not compel a conclusion that all such legislation should not be enacted. If complete certainty were applied as a standard, it is difficult to comprehend how the Civil Rights Act or any other landmark legislation could have been enacted.

Once again, I would like to express my thanks to the members of the committee for providing this opportunity to express my support for House Bill No. 5267.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Kapteyn", with a stylized flourish at the end.

Jeffrey S. Kapteyn

Joint Custody and Shared Parenting Statutes

Source: state legislatures (last updated, 29 Jan 2005)

Recognizing the benefits of joint custody and shared parenting, most states have adopted laws to encourage the involvement of both parents. These laws most often take the form of language promoting "frequent and continuing contact" with both parents, in contrast with the more traumatic traditional schedule of four days per month with the noncustodial parent. Some states have begun to adopt even stronger protections (see especially Kansas), giving children approximately equal time with each parent. This page provides highlights about the provisions and language used in joint custody statutes.

To learn more, see:

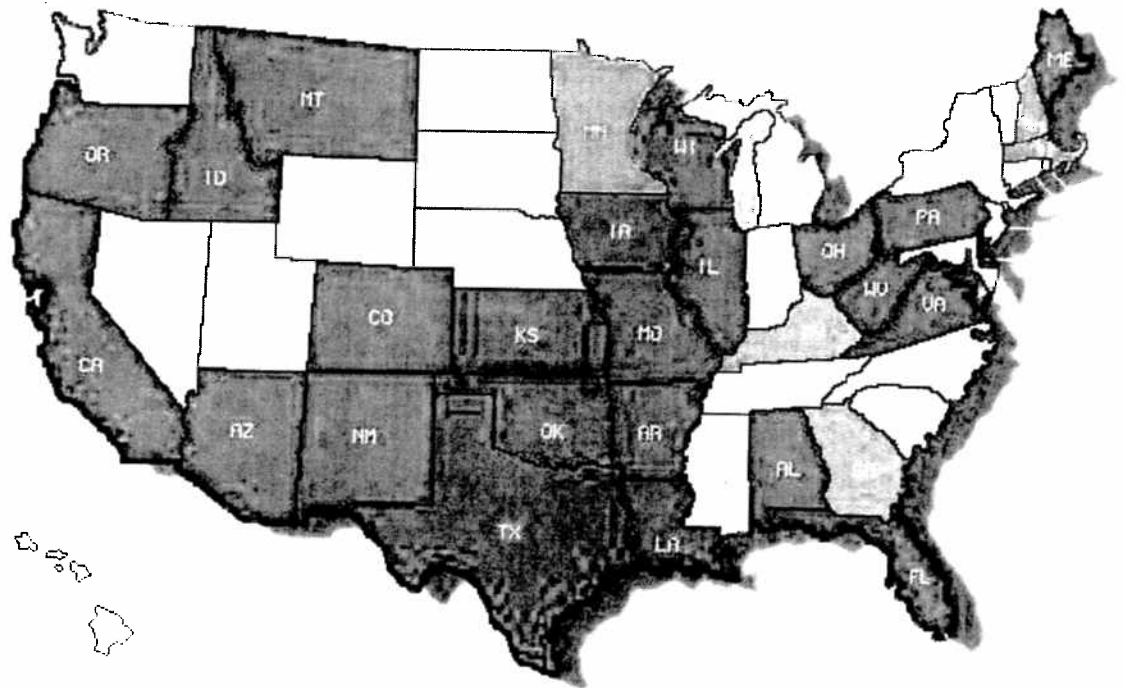
Joint Custody - What the Research Says, What Parents Say

Parenting and the Constitution - Your Right to Equal Participation in Raising Your Child

Child Custody Statistics 2004 NEW

Risks of sole custody

- Approximately equal time
- Frequent & continuing contact
- Case law
- Joint legal preference
- Preference where agree



States

Statutory language or case law

AK, IA, KS, OK, TX, WI

substantially equal shared physical custody; maximize time with both parents, or similar language - 6

AL, AR, AZ, CA, CO, DC, DE, FL, ID, IL, LA, ME, MO, MT, NM, OH, OR, PA, VA, WV

"frequent and continuing contact" or similar language - 20

GA, KY

case law - 2

MA, MN, NH

joint legal preference only - 3

CT, MI, MS, NV, TN, VT, WA

joint custody presumed where both parents agree - 7

HI, IN, MD, NC, ND, NE, NJ, NY, RI, SC, SD, UT, WY

no statutory language promoting shared parenting - 13



Throwaway

by: Dennis G. Watsis

DADS

Making the case

for fathers: Gender

bias denies dads

custody when

parents divorce

The title of this article is taken from *Throwaway Dads*, a book that captures the gender bias against fathers in Michigan's child custody determinations. This gender discrimination is evident in both friend of the court custody recommendations and in final court dispositions in divorce actions. The anecdotal evidence is undeniable and demonstrates a pattern of ongoing gender bias against fathers.

Commentator David Blakenhorn writes in *Fatherless America* that "Fatherlessness is the most harmful demographic trend of this generation."¹ His concern is echoed by the authors of *Throwaway Dads*, who report that "overall, fatherless children do far worse in school, are more prone to depression, more likely to abuse drugs, get involved in crime, and commit suicide, and are at much greater risk of becoming teen parents."²

Fathers are important. When involved in raising their children, they clearly enhance the prospect of raising good and responsible children. Yet the available statistics reveal that in Michigan, fathers are being denied custodial rights to their children. One must ask why this is occurring and how it may be remedied.

Fast Facts

- *Fathers play a crucial role in child raising, yet when it comes to child custody determinations, many are denied custodial rights.*
- *Women are seen as naturally qualified to be the custodial parent and men are not.*
- *The divorce process is strongly ingrained in tradition and stereotypical attitudes.*
- *The Child Custody Act of 1970 established a gender-blind "best interests of the child" standard but recommendations and awards from the courts continue to deny fathers due process of law.*
- *Whenever feasible, joint custody is a sure way to achieve a gender neutral outcome in divorce custody determinations.*
- *The goal should be to keep both parents actively involved in the upbringing of their children and to promote continued parental access and responsibility.*

Societal and Cultural Considerations

There is a societal and cultural dynamic for the gender discrimination experienced by fathers within the domestic relations arena. In colonial America, fathers were seen as primary, irreplaceable caregivers especially responsible for older children. They took the main responsibility for their children's religious and moral education and guided them into adulthood. This fundamentally changed when "industrialization and the modern economy led to the physical separation of home and work. No longer could fathers be in both places at once." Additionally, wars took fathers away from the home for extended periods; many never returned to resume fatherhood. Mothers came to be perceived as having a special capacity for caring for children, especially those in their "tender years."³

This societal dynamic was incorporated into the culture and domestic relations arena. According to Parke and Brott, "For at least the past 50 years, judges heavily favored mothers in awarding child custody in divorce cases. And until the late 1970s, they based their decisions on what used to be called the 'tender years doctrine.' In a 1978 custody ruling in West Virginia . . . Judge Richard Neely expressed the doctrine this way: 'Behavioral science is so inexact that we are clearly justified in resolving certain custody questions on the basis of the prevailing cultural attitudes which give preference to the mother as custodian of young children.'"⁴

The State Bar of Michigan Task Force on Racial/Ethnic and Gender Issues in the Courts and the Legal Profession commissioned by the Michigan Supreme Court found that the divorce process is "strongly embedded in tradition and stereotypical attitudes." In their report they elaborated on the problem: "Women are seen as the nurturers and caretakers. A woman's influence is in the home while the man is the breadwinner and protector. Women are seen as naturally qualified to be the custodial parent and men are not. Fundamental attitudes about men and women, divorce, and the role of judges and lawyers contribute to gender disparity in domestic relations cases."⁵ These stereotypes remain in Michigan even though mothers are increasingly active partici-

pants in the workforce and military forces and are decreasingly relegated solely to the home.

Child Custody Act of 1970

The law in Michigan is that gender is not a criterion for awarding child custody. The Child Custody Act of 1970, MCL 722.21; MSA 25.312(1), establishes a gender-blind "best interests of the child" standard. See also MCL 722.25; MSA 25.312(5).

MCL 722.23; MSA 25.312(3) defines the best interests of the child as the sum total of:

(a) *The love, affection, and other emotional ties existing between the parties involved and the child.*

(b) *The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.*

(c) *The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.*

(d) *The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.*

(e) *The permanence, as a family unit, of the existing or proposed custodial home or homes.*

(f) *The moral fitness of the parties involved.*

(g) *The mental and physical health of the parties involved.*

(h) *The home, school, and community record of the child.*

(i) *The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.*

(j) *The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.*

(k) *Domestic violence, regardless of whether the violence was directed against or witnessed by the child.*

(l) *Any other factor considered by the court to be relevant to a particular child custody dispute.*

As noted in the Michigan Family Law series, "The Child Custody Act demands an

**...it is essential
subordinate**

assessment of the ability of individual parents to care for their children, and *although old assumptions die hard in any area of the law*, the act has largely supplanted the law and assumptions that preceded it."⁶ (Emphasis added.)

Friend of the Court Child Custody Recommendations

The State Court Administrative Office compiles statewide statistics based on data submitted by the local friend of the court offices on SCAO Form 41. See the Friend of the Court Act, MCL 552.501; MSA 25.176(1). Annually, the State Court Administrative Office publishes a statistical supplement regarding activities of the local friend of the court offices. The one activity monitored by gender since 1997 is that of child custody recommendations. Aggregate statewide statistics are listed below but are available county by county.

The 1997 Friend of the Court Statistical Supplement reported that statewide custody was recommended for the mother on 6,480 occasions, for the father on 2,212 occasions, for third parties on 235 occasions, and for joint physical custody on 1,824 occasions.⁷

The 1998-99 Friend of the Court Statistical Supplement reported that statewide custody was recommended for the mother on 6,616 occasions, for the father on 2,461 occasions, for third parties on 222 occasions, and for joint physical custody on 2,017 occasions.⁸

The pattern of gender-based friend of the court recommendations continued in the

in the Michigan Child Custody Act, this is not occurring.

Child Custody Awards in Divorce Actions

One may ask what the domestic relations courts in Michigan are doing with regard to actual physical custody awards. The Michigan Department of Community Health maintains statistics of actual physical custody awards for divorce actions in Michigan by gender. MCL 333.2813; MSA 14.15(2813). These vital statistics are compiled from the Record of Divorce or Annulment form filed with the circuit court in every divorce or annulment case. Question 20 on the form asks the number of minor children whose physical custody was awarded to husband, wife, joint, or other. Regrettably, these vital statistics are omitted in the annual editions of *Michigan Health Statistics* and are not readily available. They are maintained in a computer database and are available only upon specific request. I am amazed these most interesting statistics are not annually published. Nonetheless, these statistics for the years 1995 to the present offer insight.

One might believe that the domestic relations judges involved in child custody decision making would have a moderating effect on the lopsided friend of the court child custody recommendations. After all, the courts are bastions of equal justice for litigants and should be gender neutral. However, that is not statistically apparent in divorce actions. According to the Michigan Department of Community Health vital statistics, actual child custody awards issued by the domestic relations courts statewide in divorce actions follow a similar gender-skewed pattern. In 1995, physical custody was awarded to mothers on 15,103 occasions,

to fathers on 2,332 occasions, to third parties on 273 occasions, and joint physical custody on 3,028 occasions.

In 1996, the pattern continued with mothers being awarded physical custody on 14,052 occasions, fathers on 2,302 occasions, third parties on 276 occasions, and joint physical custody on 3,000 occasions. In 1997, mothers were awarded physical custody on 13,744 occasions, fathers on 2,276 occasions, third parties on 296 occasions, and joint physical

Fathers Make a Difference

- *Fatherless children are twice as likely to drop out of school as children who live with both parents*
- *Children who exhibit violent behavior in school are 11 times as likely not to live with their fathers.*
- *Seventy-two percent of adolescent murderers and 60 percent of America's rapists grew up in homes without fathers.*

— Parke, Ross D. and Armin Brott, *Throwaway Dads* (New York, Houghton Mifflin Company, 1999)

custody on 2,719 occasions. In 1998, mothers were awarded physical custody on 13,732 occasions, fathers on 2,400 occasions, third parties on 324 occasions, and joint physical custody on 3,626 occasions. In 1999, mothers were awarded physical custody on 13,094 occasions, fathers on 2,239 occasions, third parties on 352 occasions, and joint physical custody on 3,918 occasions.

These statistics reveal in detail that the power of the state is being used to keep fathers and children apart when parents divorce.

Recommendations from the Report of the State Bar of Michigan Task Force on Racial/Ethnic and Gender Issues in the Courts and the Legal Profession

Before inequities can be addressed, it is essential that we discard the notion that fathers are subordinate child care providers. An assessment of the ability of individual parents to care for and nurture their children should govern child custody recommendations and awards. Gender stereotypes should be discarded and gender neutrality observed. As previously noted, a similar perspective was addressed in the Racial/Ethnic and Gender Issues report completed in 1989:

that we discard the notion that fathers are child care providers.

2000 Friend of the Court Statistical Supplement. It reported that statewide custody was recommended for the mother on 10,512 occasions, for the father on 2,201 occasions, for third parties on 210 occasions, and for joint physical custody on 2,031 occasions.⁹

The friend of the court offices statewide are not applying an equal treatment standard to fathers and are denying them due process of law. Although each friend of the court should blindly apply the standards set forth

Gender Recommendation VI-1: Educational programs should train judges and lawyers to recognize the unfairness which can result from gender-based stereotypes in the domestic relations area. These training programs should emphasize the special importance of domestic relations litigation to the parties involved and to society.¹⁰

Gender Recommendation VI-21: Educational programs for judges should emphasize that the "best interest" of the child should specifically relate to the individual parenting ability of each party and not the societal role placed upon their gender.

Summary of condition prompting 1989 recommendation: "Stereotypes about the traditional roles of men and women as parents may hinder the application of the 'best interests' standard and adversely affect the children, as well as the parents."¹¹

The Michigan Supreme Court adopted Administrative Order No. 1990-3 and implemented many of the task force proposals. The court supported the task force recommendations, expressing its commitment to ensuring the fair and equal application of the rule of law for all in the Michigan court system and in eliminating race, ethnic, and gender discrimination in the Michigan judicial system. In 1998, the State Bar of Michigan Open Justice Commission was formed with a goal of implementing the 1989 task force recommendations. However, despite these valiant efforts, gender bias continues to taint the domestic relations arena.¹²

The Joint Custody Alternative

An often ignored sure way to achieve the gender neutral outcome required by the law is to award joint legal and physical custody whenever feasible. This keeps both parents active in the lives of their children and makes both parents winners in the domestic relations arena. Each parent can contribute to the raising of the children in a significant manner and add different qualities to their children's lives.

When the legislature adopted MCL 722.26a; MSA 25.312(6a), it addressed joint physical custody in domestic relations cases, stating that "the parents shall be advised of joint custody. At the request of either parent, the court shall consider an award of joint custody.... The court

shall determine whether joint custody is in the best interest of the child" by considering the factors enumerated in MCL 722.23; MSA 25.312(3) and whether the parents will cooperate and agree on important decisions affecting the child's welfare.

This legislation is a positive step toward encouraging joint custody, which should be considered whenever possible as an alternative to the one-parent physical custody arrangements so prevalent in Michigan. The Michigan senate not long ago rejected a provision to the joint custody statute that would have sent a strong signal to the courts to promote joint custody. The rejected senate provision asserted that there is not a presumption against joint custody. The legislature should reintroduce this provision into the statute so that the friends of the court and domestic relations judges will begin to accept the premise that no father should be disenfranchised from his children when the parents separate or divorce and that joint legal and physical custody is encouraged whenever feasible.

Conclusion

The domestic relations forum is an unfair arena for fathers in Michigan. Statistics bear witness to what many practicing attorneys have known for years—that mothers usually get custody of the children and fathers usually get to visit the children. The United States and Michigan constitutions each provide that no one shall be deprived of the equal protection of the law. The Fourteenth Amendment of the United States Constitution explicitly provides that no state shall deprive a person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of the law. Yet fathers in Michigan are being denied equal protection and due process and are being deprived of custodial rights to their children. Equal justice under the law is an illusory legal concept in the domestic relations arena.

This gender bias against fathers has to be addressed for the benefit of not only the disenfranchised father, but principally for the children who deserve to have not one, but both parents actively involved in parenting. The State Bar of Michigan task force's recommendation to educate the legal community should

be fully implemented by the Michigan Supreme Court. Encouraging joint legal and physical custody of minor children is a way to avoid Michigan's gender-biased, assembly line custody determinations. If that is not feasible in some instances, an unbiased and neutral application of the Child Custody Act is in order, with liberal coparenting time to the noncustodial parent.

The goal should be to keep both parents actively involved in the upbringing of their children and to promote continued parental access and responsibility.¹³ The present adversarial practice of awarding child custody to the exclusion of one parent is greatly flawed in attaining this goal. The children of Michigan deserve better.¹⁴ ♦



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thereafter been in private law practice.

Footnotes

1. Blankenhorn, *Fatherless America* (New York, Harper Perennial, 1995), p. 1.
2. Parke, Ross D. and Armin Brott, *Throwaway Dads* (New York, Houghton Mifflin Company, 1999), p. 169.
3. Blakenhorn, p. 13.
4. Parke and Brott, p. 181.
5. Summary of Condition Prompting 1989 Recommendation, p. 116.
6. The Institute of Continuing Legal Education, *Michigan Family Law*, Fifth Edition, § 11.1.
7. Friend of the Court Statistical Supplement, 1997 Annual Report, pp. 158, 159.
8. 1998-99 Annual Report, pp. 51, 52.
9. 2000 Annual Report, pp. 53, 54.
10. Report of the State Bar of Michigan Task Force on Racial/Ethnic and Gender Issues in the Courts and the Legal Profession, State Bar of Michigan, p. 116.
11. Task force report, p. 146.
12. Weber, *Eliminating the Barriers. Opening the Doors*, 80 Mich BJ 24 (2001).
13. Michigan Parenting Time Guideline, State Court Administrative Office, p. 3.
14. For a contrary perspective, see Carpenter, *Why Are Mothers Still Losing: An Analysis of Gender Bias in Child Custody Determinations*, 1996 Det 1:33.

Current standard from 1970 is out of date in today's world

by 74 MAY 2, 2006

The Committee on Family and Children Services of the Michigan House of Representatives soon will debate HB 5267, introduced last October by Rep. Leslie Mortimer, R-Horton.

This proposed legislation would require a "presumption of joint physical custody" after divorce unless a parent is unfit, unwilling or unable to care for their child. It makes an exception if a parent doesn't reside in the child's school district and cannot maintain the child's present schedule.

Michigan Family Courts apply a custody standard designed in 1970 that requires both parents agree to joint physical custody or it is deemed unmanageable. Ask yourself how likely it is that

some parent(s) may withhold this agreement solely to deny equal custody to the other parent?

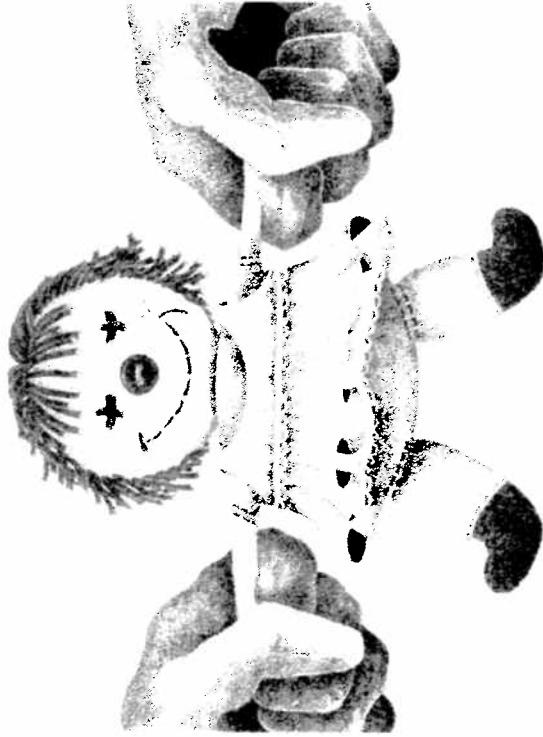
HB 5267 has stirred many organizations to use scare tactics to assert that this bill is wrong for Michigan and its children. They remind us of abusive noncustodial parents that would "gain access" to the other parent. HB 5267 wouldn't support this kind of parent as joint physical custodian.

Critics of HB 5267 claim that noncustodial parents want joint physical custody to reduce child support and to rob our children of needed money.

Forget the vileness of this assertion; HB 5267 makes no change to the current child support formula.

Lawyers opposing HB 5267 assert that it will take discretion from judges. HB 5267 doesn't take discretion from judges; it replaces 1970 standards with 2006 standards. It will, however, reduce litigation since many motions involve enforcing noncustodial parental rights being violated.

These special interest groups misrepresent HB 5267. By playing to the pessimist in mankind, they believe they can scare us



HB 5267 creates a standard of equality, and assumes both parents want and deserve to be equal in the child's life even after divorce.

time" with both parents.

Are there bad people who will attempt to take advantage of the system? Yes, there are.

Are there bad people that already take advantage of the present system? Yes, there are.

Children need both parents. Parents deserve the right to equal parenting without having to get permission from the other parent — permission that in all too many cases is withheld as a punishment.

It's not 1970 anymore. HB 5267 would create equality. Equality for our children and equality for parents who never intended and don't deserve to divorce their children.

HB 5267: It's about children; it's about fairness; it's about time.

children want and would benefit from this equality, absent evidence to the contrary.

Is this really a revelation? Over 85 percent of Michigan residents asked say joint physical custody should be the standard.

Grown adults who are products of divorce say divorce was made more difficult for them because they didn't have "equal

into leaving things the same.

They do that not in the best interest of children or even the abused parent they purport to represent. They do that in their own best interest.

HB 5267 creates a standard of equality, and assumes both parents want and deserve to be equal in the child's life even after divorce. It also assumes that our

Mackinac Center for Public Policy

Posted: Friday, June 23, 2006

The Contemporary Litigation Environment

By Christina M. Kohn

Introduction

A crisis exists in Michigan today, and not many people are aware of its severity. Of all the cases filed in the circuit courts last year, an astonishing 66 percent were family division filings. One reason that family cases are burdening the courts is that in the last 50 years, Michigan has experienced a fivefold increase in the number of children born out of wedlock or to divorced parents.

Besides having a moral and cultural impact, this change in the family structure has repercussions for personal freedom. The dramatic increase in family court cases has greatly increased government's role in individuals' personal lives. Currently, there are 1 million open child support cases in Michigan, resulting in expanded government intrusion in the personal lives of at least 3 million people.

Most single-parent families live in poverty and rely on the government for assistance. The current welfare system, even after significant federal reforms in 1996, fosters a dependency on the government and instills in the beneficiary a sense of permanence of economic station. A disinclination to work, personal demoralization and even criminal behavior can be inherited by the children, thus perpetuating the cycle of dependence.

Michigan Supreme Court Justice Maura Corrigan, whose distinguished career includes service as chief assistant United States attorney, chief judge of the Michigan Court of Appeals and chief justice of the Michigan Supreme Court, delivered an address on this topic as part of the Mackinac Center's Distinguished Visiting Speakers Program on June 14, 2006. In her remarks, she expressed a deep concern about the current state of Michigan families, but she was also optimistic that an open dialogue among informed citizens can and will make a positive difference.

Justice Corrigan was introduced by Mackinac Center Senior Legal Analyst Patrick J. Wright. The text of her address is posted below.

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(Christina M. Kohn is a senior economics and history major at Hillsdale College and a summer 2006 intern at the Mackinac Center for Public Policy, a research and educational institute headquartered in Midland, Mich.)

Thanks so much for that kind introduction, Patrick, and for the invitation to speak at the Mackinac Center this afternoon. I applaud the work of the Mackinac Center. Your exceptional work here influences a national audience. I am honored to occupy your stage today, especially as I am not an academic or a social scientist. I hope to bring you a state court leader's perspective that has been forged by confronting the fallout from family dissolution.

I will speak this afternoon about the contemporary litigation environment in Michigan. I hope to present a truthful portrayal of where Michigan currently stands, and an approach for thinking about beginning to transform our litigation environment.

My message will be at once troubling and challenging. But it is most definitely a message you need to hear. I hope I can entice the Mackinac Center to come to the table — to join other scholars of first rank across the United States who are looking at these problems.

I certainly never dreamed that our work on the Michigan Supreme Court would earn us kudos as a "judicial point of light" in The Washington Examiner, or praise in the **Wall Street Journal** (thanks to Patrick Wright) as the

"finest Supreme Court" in the nation. While we have transformed the Michigan Supreme Court in the last seven years, Michigan itself is locked in a "single-state recession." We are awaiting news about GM's, Delphi's, and Ford's future and all of us are certainly experiencing the ripple effects of our state's economic problems. Never has the challenge facing Michigan been greater. As Thomas Friedman's best-selling book *The World Is Flat* tells us, we live in a radically changed world. Contemporary information technology allows jobs to be unbundled and performed virtually anywhere in the world. How will Michigan transform itself in this new world? How is our state's litigation environment going to support our transition so we can compete in this flattened world of global competition? And how will we do this in the face of a huge cultural shift? Professor James Q. Wilson described this cultural shift best in his 2002 book *The Marriage Problem*—today, marriage is one of a range of options; it is not an institution.

My remarks about our litigation environment are in two parts. First, a review of our tort litigation environment, and second, a look at a revolution in the litigation environment due to the meteoric rise of cases in the family court.

I really got an accidental awakening to the issues I'm presenting here. The day I became Chief Justice in 2001, our state budget director alarmed me by saying that the governor planned to impose a \$40 million federal penalty exclusively on the judicial branch. The penalty arose because the judicial branch had not cooperated in building a statewide computer system to collect child support. From 2001-2003, we moved half a million child support cases from a local computer delivery system to a statewide computer system. We are now federally compliant. Indeed, the federal government refunded \$35 million to us for doing a good job. Health and Human Services also appointed me to a national task force studying child support arrearages. But this whole effort led me to ask what was causing our problem and I developed a keen and abiding interest in the real economic issues surrounding supporting our nation's children and protecting our future.

To try to tackle the tough questions I've posed to you, let me refer first to a recently released comprehensive study of the 50 states' liability system that ranks them from best to worst. This survey has been conducted since 2002 by Harris International for the U.S. Chamber of Commerce. This year, Michigan ranked number 22 in the overall survey of the 50 states' litigation environment — an improvement from our earlier ranking in 2003 of number 29 in the United States. Since 2002, the Harris study of the "Best to Worst Legal Systems in America" has asked how corporate attorneys in each state view their state's liability systems. In Michigan, Harris surveyed 125 corporate attorneys. They measured numerous elements, including whether a state has and enforces meaningful venue requirements, how it treats class action suits, punitive damages, and its rules for scientific and technical evidence. The survey assesses the timeliness of summary judgments and discovery rules. It looks at the competence and impartiality of judges as well as juries' fairness and predictability. Needless to say, the vast majority of those corporate lawyers surveyed tied each state's litigation climate to business decisions about where to locate and whether to remain in the state.

So Michigan is faring better on this survey than we did just five years ago. But we obviously still have far to go to improve our ranking so as to make Michigan an attractive place to live and work. We need to improve not only in relation to our sister states, but in relation to our global competitors. Being a state in the middle of the litigation environment pack in the United States is simply not good enough.

I brought a **short handout** with me this afternoon. Handout #A, Table 42, summarizes Michigan's ranking on every element the Harris study rated. As you can see, our top ranking was in the area of punitive damages — interesting since Michigan does not even have punitive damages — and we fared the worst on the attorneys' assessment of our judges' competence and impartiality.

The next handout, #B, Table 8, is the overall ranking of the top/bottom five states. We are neither the best nor the worst in any category at all; interestingly, our near neighbor Indiana ranks in the top 5 on several measures, while conversely Illinois often ranks in the bottom 5.

This Harris Study is illuminating and instructive, and provides much fodder for the leaders of the judicial branch and government leaders; these ratings of our state's litigation environment are certainly worth this audience's careful attention. But they really only tell a part of the story.

I want to next relate information drawn from our last annual report of judicial activity in our state's circuit courts. Well, what do the numbers show? (Table "C" in the handout.) As you may know, Michigan has 10 million people. We have approximately 600 judges, of whom 217 are circuit judges.

Let's begin first with a comparison from 2000-2006. You will see that filings overall are trending down. In 2005, family court filings are down by almost 40,000 cases from 2000. Contrarily, non-family (traditional criminal and civil) are up from 109,000. They peaked at 117,000 in 2004 and went back down to 113,690 in 2005. But do you notice on this handout that two-thirds of the circuit court filings are family court matters?

Finally, please look at the last page of the handout, Table "D" (page 31 of the report). Taking a closer look at the statistics, you will see that general civil filings are up by approximately 5,000 since 2000, and auto negligence is relatively stable. Non-auto damage filings are definitely down from 11,000 filings in 2000 to 7,400 in 2005. This is the figure that the Harris Study is concerned about. You can see that it is a miniscule number by comparison with 330,000 filings overall!

My core point from the handouts on Michigan's litigation environment is this explosion in family court filings. The Legislature was well aware of the surge in family court cases when it formed the family division of circuit court almost ten years ago. Indeed, our state's circuit courts are now dominated by cases involving either the breakdown of the family or the failure to form any family unit whatsoever.

Consider the 2005 data against our annual report of judicial activity in 1966. Forty years ago when Michigan's population was eight million, the total number of all filings in the circuit courts was 86,000 cases, i.e., civil, criminal and family. So in 40 years, our circuit court filings have essentially quadrupled. Now that is explosive.

Let me give you some broader context to understand what Michigan and our country is experiencing. Federal census data indicates that, in 1950, for every 100 children born, 12 children entered a broken family unit, with four of the 12 being born out of wedlock, while eight had parents who divorced. By the year 2000, that number had risen five-fold, to 60 out of 100. That is, of every 100 children born, 33 were born out of wedlock and 27 had parents who divorced. Think about it. Today, an American child who is being brought up by married parents is in the minority.

Michigan is, of course, caught up in the throes of this national trend. We have more than one million currently open child support cases in our family courts, mom and dad and child, representing one-third of Michigan's population and more than one million children. We believe that three million of our 10 million people have an open file in the family court. The most startling statistic to me is that 50 percent of our open child support cases involve paternity cases, i.e. children who are born out of wedlock. In our state, parents owe their children \$9 billion in unpaid child support. In fact, roughly 10 percent of our nation's total arrearage of \$102 billion is owed right here in Michigan.

I find those numbers chilling. From my vantage point, parents and children are increasingly caught up in our legal system. They are locked in a cycle of poverty, disadvantage, and often crime. Michigan has 20,000 children in foster care — 7th highest number in foster care in the country. These children reflect a much larger problem affecting our society. Most of these children have parents who never married. These children will remain in the foster care system until age 18, at which point they'll be on their own without any kind of support structure. Michigan State University studies show that more than half of those young people wind up back in our courts within two short years of aging out of the system. They become caught up in substance abuse, crime, and themselves perpetuate the cycle of abuse and neglect with their own children — who, again, will most likely be born out of wedlock.

What our judicial branch annual report tells us, locked inside these boring and apparently innocuous numbers, is that we have a huge problem on our hands. In just one generation, we have moved from a culture of marriage to a culture of divorce to a culture of cohabitation or one-night stands.

Chief Judge Mary Beth Kelly of the Wayne County Circuit Court (the county in which Detroit is located) describes a typical child support case of that court's 220,000 child support caseload. (This is larger than the caseload of 30 states.) Chief Judge Kelly's typical case is a 21-year-old male who fathered a child in a one night stand some years earlier. The father does not know the mother, much less his child; he was identified by a DNA test. He now owes thousands of dollars in back child support. The arrearage he owes results from a court order that was entered by default when he was 18. There is a belief on the street that if you don't go to court, the court cannot tag you with a child support order. This is, of course, a totally false notion, but one that is quite prevalent.

Professor Wilson has aptly captured what is going on: "Whereas marriage was once thought to be about a social union, it is now about personal preferences."

So if "personal preference" is the operative principle today, where does that leave us as a state and a nation?

Sadly, it leaves huge numbers of us in poverty. Today, 50 percent of all the live births in our state are being paid for by Medicaid. I think you are also aware of other data: according to HHS/National Center for Health Statistics, almost 34 percent of all the children born are born to unmarried parents. Sixty percent of these never-married single-parent families live in poverty. By contrast, only 7.7 percent of first-marriage intact families live in poverty. Census information for all single-parent households shows that, as of 2002, families with a female head of household and no husband in the home accounted for half of all families living in poverty. Four times as many custodial-parent families live in poverty as intact married families in poverty. In other words, parents who are not

wealthy and who live separately cannot maintain the living standard of an intact family.

So this is the 2006 business of our courts and the litigation environment that we confront. This is the litigation environment in which Michigan's 600-plus judges, court staff, lawyers, and litigants, live and work.

What all this data reflects is a significant decline in two-parent families and a corresponding explosion in family court cases, with children as the most obvious victims. The numbers I have presented here today are a product of cultural forces beyond the power of government to control. But these broken families, or non-families, are utilizing court and social service resources — taxpayer resources—at an astonishing clip.

The question is, what do we do about it?

I don't pretend to have the answer. But I will say this: it's no longer enough for us to simply deal with the fallout of this cultural catastrophe. We all have to begin talking about what is happening to children and families. We must have that dialogue regardless of whether we think we can all agree on the solution. Too often, discussions on matters of great moment are stifled because people are afraid to generate controversy or disagreement. But silence, although perhaps more comfortable, is something we can no longer afford, if we ever could.

And I will offer you an approach. I hereby challenge some of the best thinkers in Michigan, you who are sitting right here in this room, to join forces with others across our nation who are working on the problem. By this I mean, for example, Mary Ann Glendon at Harvard, James Q. Wilson at Pepperdine, David Popenoe at Rutgers and Carl Schneider at University of Michigan Law School. And I pledge to serve as an intermediary, an introducer and a participant at this important table if you will join me!

We can do better and we must — we have no other choice if our democratic society is to survive. Thank you for letting me share my perspective with you this afternoon.

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Making Divorce Easier On Kids

Sept. 13, 2006

CBS) About one-quarter of American adults come from divorced families, and many say they missed one parent terribly. Now there's a movement in some states to do divorce "better."

One approach uses custody arrangements that include both parents. ***The Early Show's Tracy Smith*** visited a family living with a divorce that even King Solomon would love.

Drew Eichner and Lynne Baker are divorced but they have a unique custody arrangement that allows their three boys, 14-year-old twins Joe and Sam, and 8-year-old Jack, to split their time equally between their parents' houses.

Monday and Tuesday are spent at Lynne's house, while Drew has his boys on Wednesday and Thursday; weekends are switched off.

It's perfect equity for mom and dad, but the kids move back and forth two or three times a week.

The twins tell **Smith** it's not hard to get used to it, and jokingly call it "divorce mode."

The houses are within a few minutes of each other, but life still gets complicated.

"It's totally crazy. Sometimes there's pets, golf clubs," says Drew Eichner. "I mean it gets very crazy."

Sometimes you just wanna rest, give my brain a little rest and just lay down," says Jack.

Welcome to the world of 50-50 joint custody. It's part of a larger "shared parenting" trend initiated by fathers' groups who say that traditional family custody law diminishes the role of dads.

"Fathers are pushed to the margins of their children's lives," says fathers' rights advocate Glenn Sacks. "You need shared parenting in order to protect that relationship with your children."

"I've taken on a lot more responsibility than I ever thought I would," says Drew. He now spends more time with the boys now than he did when he was married.

"I try to make it the four boys, it's the guys, it's a dorm room," Drew says. "We eat together, the toilet seat's left up. It's boy town."

"They need their mom for certain things, but they have an important — a really important — bonding relationship with their dad," says Lynne.

The 50-50 arrangement is a well-planned, deliberate effort. Each house has the boy essentials: television, computer, basketball hoop. Mom's house has a dog and a cat and there are fish at dad's.

The arrangement is flexible and the exes get along. For Drew and Lynne, it is a good divorce.

"My divorce is better than plenty of marriages I've seen, including my own," Lynne says.

CNN LARRY KING LIVE

Interview With Judge Judy

Aired November 13, 2006 - 21:00 ET

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(BEGIN VIDEO CLIP)

JUDITH SHEINDLIN, "JUDGE JUDY": You want to be stupid you pay.

LARRY KING, CNN HOST (voice-over): Tonight...

SHEINDLIN: That didn't require an answer smarty pants.

KING: ...Judge Judy she's back, straight answers as only she can give them to tough questions, including yours.

SHEINDLIN: Don't ever interrupt me.

KING: Judge Judy she takes no nonsense but she'll take your calls next on LARRY KING LIVE.

(END VIDEO CLIP)

KING: It's Monday so this must be Judge Judy. She's become our regular visitor here and it's always great to see her. Judge Judy Sheindlin, retired New York Family Court judge, the best-selling author in her eleventh season on television's syndicated "Judge Judy Show," which is seen now literally everywhere around the world.

How do you explain eleven years?

SHEINDLIN: I don't know, luck I suppose has a great deal to do with it.

KING: Plays a part in it.

SHEINDLIN: Plays a part in it and I prepared myself I think for the 25 years that I sat in the Family Court, you know. I was -- I prepared myself. I developed an understanding of people what motivates them and what's right and what's wrong. I think I started out with a reasonable moral compass that you get from your family. And then there's always that element of luck.

KING: If I had seen you in family court would I have seen the same person I see on television?

SHEINDLIN: A little younger, a little younger.

KING: No, but the same attitude, the same attitude?

SHEINDLIN: But same, yes, this is not... KING: You were tough?

SHEINDLIN: I was practical and, yes, tough. I believe that people who make children should support them. I believe that you're supposed to have a little respect for those people who came before you, your parents.

I think that elder abuse in this country, which is a burgeoning crime, is horrendous. I think that we don't revere the elderly as we should. I think that if you're going to create families you have to be prepared to be responsible. That's not tough, Larry. That is practical.

KING: Is child custody the toughest when the man wants custody, the woman wants custody?

SHEINDLIN: I think that when you start out with a custody determination in court you should start out with a clean slate and that means that both parents are equally able and capable of taking care of children unless

one or the other demonstrates the opposite, so that should be the clear standard that both people should have equal input, both parents should have equal input in the lives of their children.

And, if you start out with that as a criteria and people know that, then there's not going to be that jockeying for position, which very often has a financial implication. All too often when there are custody battles the best interest of the children somehow fall by the wayside.

KING: Does it ever after all these years get repetitive? Do you ever sit there and say, "Here comes another guy with this problem?"

SHEINDLIN: Yes. Yes, it becomes repetitive.

KING: So, how do you deal with it to get revved?

SHEINDLIN: I don't know. I enjoy what I do and each -- while the cases somehow have a similar ring to it after, you know, after 30 or some odd years, what you do is you look at the personalities.

And, if you really are good at what you do, and I think, I like to think that I'm good at what I do, you have an opportunity to touch the person that's before you in a very different way from the way they've been touched before.

So, even though the story may be the same if I can grab that person and say to them, "Listen, don't make a big magilla out of this little problem. It's a tea service. It's not urgently important. It's a sofa bed. Who cares? You've been litigating over this sofa bed now for two years.

It's been taking away -- sucking out all the good in you for two years. Get over it. Put a period and move on. And, if I can cajole them into doing that, I've done a good thing. I've done a mitzvah. KING: All things being equal, by the way we'll be taking your phone calls and we'll be also giving you off the air definitions of mitzvah, little joke.

Is it generally a rule in a custody case...

SHEINDLIN: Mitzvah, good deed.

KING: Yes, I know. Is it generally a rule in a custody case that the woman has the edge?

SHEINDLIN: Well it should not be. That's not the law. The law in this -- in every jurisdiction that I know of is that parents stand on an equal footing. Unfortunately, many of the services that serve the matrimonial courts, psychiatrists, psychologists, bring their own predisposition in that regard and they still say that, well, children of tender years belong with their mother because of this nurturing.

Well the truth of the matter is that's not always true anymore. Mothers are career women just as fathers have careers and businesses and very often now we say to fathers, "You have to assume half the responsibility of these kids, you know. You made them. We're going to take parenting together. We're going to be in there in the delivery room together. We're going to take six months off. I'll take three. You take three. You're going to change the diapers just like I do and men buy into that."

All of a sudden when the marriage is over we say "Just a second, you're a second class citizen, you don't deserve even our consideration as being the primary parent." So that's why I think that if you started out with the premise that each parent is supposed to have 50 percent of a child's time so that a child can enjoy a good relationship with both parents, we would do away with a lot of the custody battles.

KING: Let's get an e-mail. We have many e-mails for Judge Judy, including your phone calls coming up.

This is from Bill in Phoenixville, Pennsylvania. "Have you ever been wrong and tried to fix it?"

SHEINDLIN: I cannot think of a court case where after due deliberation and trying to get all the facts I made the kind of mistake that I wanted to undo and do over again.

KING: Never?

SHEINDLIN: Not that I can remember. That may be because I have a faulty memory and it may be because

when you do thousands of cases and you try to do your best in each one, you try to get the quality information and make a decision and it's not about politics and it's not about who's winking at you, then if you've done your best you can't look back.

Sometimes circumstances themselves tell you that you made a mistake. If I give custody to a woman of her children and she has a drug problem and a year later she has another drug addicted baby, well I've made a mistake.

KING: Yes.

SHEINDLIN: I've made a mistake and that has happened to me but I have the opportunity then to correct that mistake.

KING: To rectify it. Explain this community property law is that good or bad? That what it divided, everything is divided since the (INAUDIBLE) how does it work?

SHEINDLIN: Well once -- community property is once a couple gets married everything that they have and that they acquire during the marriage is presumed to be 50 percent his and 50 percent hers. That's what a community property state is generally.

KING: Do you like that?

SHEINDLIN: Do I like that? Sometimes, sometimes it's fair and sometimes it's not. I think that if you have a marriage of short duration then it can become very unfair. I think that people have to plan.

And we've spoken before and I might have mentioned it here, I don't know, my idea about having marriage licenses list on the marriage license what property you're coming into the marriage with that is not community property that if the marriage terminates and 52 percent of the marriages we know terminate, that that property is not an issue that property that you're coming into, the car, the condo, the bank account, the 401K, whatever it is. This is his. This is hers. Let's not even talk about that.

KING: Do you like no fault?

SHEINDLIN: Do I like no fault divorce? Yes, I do. Yes, I do. As a matter of fact...

KING: Most states have it now, right?

SHEINDLIN: Practically every state has, believe it or not, except New York State. New York State is one of - is either the only one...

KING: So you have contested divorces?

SHEINDLIN: ...the only one or one of very few this enlightened cosmopolitan Mecca that still says you have to find fault. And recently the Miller Commission took testimony. Sandra Miller (ph) chaired that commission and she's a wonderful lady. She was a justice in the Appellate Division in New York State.

And they couldn't understand why after years of fighting and bickering we cannot get or you cannot get in New York past a law that says, "If the marriage is over, why should people have to lie in an affidavit and say 'He abandoned me, she committed adultery, we haven't slept together in three years,' whatever the lie is? Why can't you just resolve marriages that don't work out by saying, 'Look, you have to resolve custody issues. You have to resolve financial issues. You have to resolve every other issue. But the issue of the raise itself, the marriage itself, if it's over it's over. It's just reality.

KING: More with Judge Judy in a minute. We'll be taking your phone calls. We'll be giving her e-mails that we've received as well on this edition of LARRY KING LIVE. Don't go away.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: And he promised me he would take (INAUDIBLE).

SHEINDLIN: Listen, do you have any idea of the cost of my legal education?

Custody Disputed

The guidelines judges and psychologists use to decide child custody cases have little basis in science. The system must be rebuilt on better research

By Robert E. Emery, Randy K. Otto and William O'Donohue

Courts are overwhelmed with couples who are splitting up and disputing custody of their children. If parents cannot agree on their children's fates, a judge will decide who gets custody, and increasingly, psychologists are becoming involved as expert evaluators during legal wranglings. But do any of these professionals have proof that the bases for their life-determining decisions are empirically sound? It seems not, and it is the boys and girls who suffer.

Parents often think that judges possess some special wisdom that will allow them to determine a custody arrangement that is somehow better than what parents can devise themselves. They don't. Although the details vary, every state's law indicates that custody decisions are to be made according to the "best interests of the child." That rule of thumb sounds laudable, but it is so vague that the outcome of every case is unpredictable. The possibility of "winning" in court, paired with the emotional dynamics of divorce, encourages parents to enter into custody disputes, which only increases conflict between them--and conflict is a major cause of lasting psychological damage to children of separating spouses.

Furthermore, custody evaluators oftentimes administer to parents and children an array of tests to assess which custody arrangement might be best. Given the frequency, high cost and social importance of custody evaluations, we might expect to find a large body of research on the tests' scientific validity. Yet only a few studies have been completed; more are needed, but the few do show that the tests are deeply flawed. Our own thorough evaluation of tests that purport to pick the "best parent," the "best interests of the child" or the "best custody arrangement" reveals that they are wholly inadequate. No studies examining their effectiveness have ever been published in a peer-reviewed journal. Because there is simply no psychological science to support them, the tests should not be used. And other, more general psychological tests that evaluators sometimes employ, such as IQ tests, have little or no relevance to custody decision making and should be dropped as well.

Conflict, the Real Barometer

There is, however, one tremendously important conclusion about separation that has been proved by extensive, sophisticated, multidisciplinary research: The level of conflict between parents that children experience during separation, and the ongoing disagreements they may be exposed to thereafter, greatly influences the degree of psychological trouble the youngsters will have in the short and long term.

Research shows that most children are resilient despite a divorce, and it is quite possible for them to suffer no greater incidence of psychological maladjustment than kids whose conflicted parents remain married. Studies tell us that many of the problems observed among youths from divorced families are actually present before the separation. Parental fighting often precedes a separation or divorce, and various analyses demonstrate that children fare better psychologically if they live in a harmonious divorced family than in a conflict-ridden two-parent household.

The bottom line is that in any family situation, children do better if adult clashing is minimal or at least contained so children do not witness or become involved in it. The process of dissolution, and the nature of ongoing family relationships, is more important to a child's mental health than the structure of any particular arrangement, whether that be sole custody, joint physical custody, or liberal or limited visitation with the noncustodial parent. Researchers report that both boys and girls function equally well living primarily with either their mother or father. Other important factors in minimizing the trauma for offspring include having a good relationship with an authoritative resident parent (one who is loving but firm with discipline), economic security and a good relationship with an authoritative nonresident parent.

Parents should determine their children's lives after separation, just as when they are married.

The coupling of the vague "best interests of the child" standard with the American adversarial justice system puts judges in the position of trying to perform an impossible task: making decisions that are best for children using a procedure that is not. We appreciate the terrible dilemma that the best-interests standard creates for judges, custody evaluators and, of course, parents and children. We also believe that a mental health professional may be in a better position to make sound recommendations about custody than a judge bound by rules of legal procedure. Nevertheless, we believe it is legally, morally and scientifically wrong to make custody evaluators de facto decision makers, which they often are because judges typically accept an evaluator's recommendation.

Encourage Parents to Decide

One straightforward policy changes would improve custody decisions. First, we urge judges, lawyers and other advisers to encourage parents to reach custody agreements on their own through divorce mediation, collaborative law, good-faith attorney negotiations or psychological counseling. Studies show that these efforts reduce conflict and encourage more cooperative, ongoing interactions between parents. Such arrangements facilitate positive relationships between children and their mothers and fathers. These practices also embrace the philosophy that, in the absence of abuse or neglect, parents should determine their own children's best interests after separation, just as they do when they are married or living together. Parents--not judges or mental health professionals--are the best experts on their own children.

The important reason to follow this approach from the outset is that parents ultimately must manage their own relationship and custody decisions. A cooperative approach, rather than adversarial litigation, will help achieve this outcome. Options include pro se divorce, in which parents manage legal

matters without lawyers; divorce education, usually involving court-mandated classes on parenting; cooperative negotiations between parents and attorneys (including a new approach called collaborative law whereby lawyers agree not to go to court); family therapy; and the most firmly established of the options, divorce mediation, in which parents negotiate a settlement with the help of a neutral expert, usually a mental health professional or an attorney.

The second step for reducing conflict is for state legislatures to enact clearer guidelines for determining custody when parents cannot reach an agreement. A fair but less vague standard would reduce the number of contested cases that are brought to court in the first place. Too often one or both former partners seek litigation precisely because the best-interests approach encourages false hopes of "winning." Firmer rules would discourage litigation and reduce conflict between parents--the ultimate goal. We find particular merit in the proposed "approximation rule"--the suggestion that postdivorce arrangements should approximate parenting involvement in marriage. The most important advantage of this guideline is that parents and their attorneys would know what to expect of the courts, and this knowledge would promote earlier settlement.

No state has yet implemented the rule, so we have no evidence of its effectiveness; however, the American Law Institute, whose model statutes often become the basis for state laws, has endorsed the idea in its proposed reforms of divorce and custody law.

Finally, we recommend that custody evaluators offer only opinions that are clearly supported by psychological science. Until far stronger scientific support arises, this recommendation means that evaluators should abandon the use of all custody "tests" that purport to measure children's best interests directly or indirectly.

Our recommendation to limit expert testimony may seem radical, but we are simply urging the same rigor that is applied to expert testimony in all other legal proceedings. The American Psychological Association, the Association of Family and Conciliation Courts, and the American Academy of Child and Adolescent Psychiatry all have developed guidelines for professionals who conduct custody evaluations. Each group recommends an assessment of children's needs, parents' abilities to meet these needs, and parents' abilities to provide for future needs. Still, there is little agreement about how to assess these factors. We therefore urge professional organizations to develop clearer guidelines on which tests have a basis in science and to generate data on the appropriate inferences that can be drawn from responses children and parents provide in taking those tests.

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